MT LEGISLATIVE HISTORY

Chapter 428 1973

Bill H 573 S _____ Original bill & hist. ___C

H. Committee on State Administration		S. Committee on State Administration	
Hearing Date(s) Feb 13	✓C	Hearing Date(s) March 05	✓C
_____	___C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Feb 13	✓C	March 05	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

STATE ADMINISTRATION COMMITTEE

42nd Legislative Assembly

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
SB 174	rating organization--annual fee for license $100	2-5-73	2-8-73	Referred from Business and Industry	2-8-73	BE CONCURRED IN	
SB 336	establishment of prices for state prices for state newspaper publication	2-6-73	2-20-73		2-22-73	BE NOT CONCURRED IN	
SB 186	to repeal a certian section-money credited to board of real estate not used by Dec. 31.	2-6-73	2-22-73		2-22-73	BE CONCURRED IN	
SB 177	abolishing the liquor control board--functions transfered	2-6-73	2-24-73		2-27-73	BE CONCURRED IN	
HB 571	first chapter of the executive reorgainization act of 1971	2-6-73	2-13-73		2-13-73	AS AMENDED DO PASS	
HB 573	codification and general revision of the laws relating to the dept. of state lands	2-6-73	2-13-73		2-13-73	DO PASS	

STATE ADMINISTRATION COMMITTEE

February 13, 1973

The State Administration committee meeting was called to order this date with Chairman Brand presiding. All members were present.

The following bills were before the committee for consideration:

HB 440...Rep. Lee, sponsor, explained this bill to the committee and proposed an amendment, attached. Mr. John Hale testified as a proponent. There were no opponents.

HB 573...Rep. Bardanouve, sponsor, briefy explained this bill. Mr. Ted Schwinden explained this bill in detail. Mr. Grossfield also testified as a proponent. Prepared statements are attached. There were no opponents.

HB 571...Rep. Bardanouve presented the bill to the committee. Mr. George Bousliman explained this bill to the committee. His prepared statement is attached. There were no opponents.

HB 396...Rep. Towe, sponsor, explained this bill to the committee. There were no opponents.

In executive session the following actions were taken on bills:

HB 577...Rep. Ulmer moved HB 577 be held for one year. The motion passed unanimously.

HB 396...Rep. Campbell moved HB 396 DO PASS. The motion passed unanimously.

hB 571...Rep. Hodges moved HB 571 as amended DO PASS. The motion passed with Rep. Mercer and Ulmer voting NO.

HB 573...Rep. Mercer moved to hold HB 573 for one year. Rep. Kessner made a substitute motion that HB 573 DO PASS. The substitute motion passed with Rep. Ulmer, Flynn, Hageman, Mercer voting NO and Rep. Campbell abstaining.

HB 440...Rep. Seifert moved to amend HB 440, amendment attached. The motion passed with Rep. Flynn voting NO. Rep. Flynn moved HB 440 as amended DO PASS. The motion passed with Rep. Towe abstaining.

HB 280 was before the committee for consideration. Rep. Baucus, sponsor, explained the bill to the committee. Mr. George Bousliman further explained the bill and proposed an amendment, attached. Mr. Harold Pitts testified as a proponent.

Opponents to this bill were the following: Mr. Omholt, Mr. Ted James, Mr. Francis Mithoug, Mr. Wayne Chestnut, Mr. Ian Davidson, Mr. F. Earl Monaco, and Mr. Norman Hanson. Others were present but unable to testify.

WITNESS STATEMENT

Name Ted Schwinden Date 2/13/73

Address State Capitol Support ? ✓

Representing Dept of State Lands Oppose ? _____

Which Bill ? HB 573 Amend ? _____

Comments:

Please leave prepared statement with the committee secretary.

Recodification of the Laws of the Department of State Lands

This is an explanation of the proposed recodification of the laws pertaining to the Department of State Lands. The recodification was required in order to reflect the changes made by the Executive Reorganization Act of 1971. That act abolished the Department of State Lands and Investments and the office of Commissioner of State Lands and Investments and transferred their functions to the newly created Department of State Lands.

Most of the laws pertaining to the new Department of State Lands are found in title 81 of the Revised Codes of Montana. References are also found in sections 50-702, 82-904, and title 50, chapters 10, 11, and 12. The proposed recodification for the Department of State Lands will not include title 50, chapters 10 and 12. These chapters pertain to mined land reclamation and the Department of State Lands is now working on a new draft to replace the present law. The new draft will be introduced in a separate bill.

In the proposed recodification, references to the "Department of State Lands and Investments" and the "Commissioner of State Lands and Investments" are changed to the "Department of State Lands." Many sections contain archaic and obsolete language; it is recommended that these sections be changed to reflect modern and simplified language and that the obsolete parts be stricken.

Most of the present land laws were enacted in one large act in 1927. Many of these initial laws have been amended and repealed, causing the sequence in the numbering of the sections to

be improper. Thus, several sections are proposed to be renumbered and moved to the area in the title where they properly reflect their substance.

Generally, the aim of the recodification is merely to reflect the changes made in the Reorganization Act. However, minor substantive changes are suggested in a few areas. These changes only pertain to administrative matters, and have no affect on the policies of how the lands of Montana will be handled. These changes are proposed at the recommendation of the Department in order to improve its ability to administer state lands.

Illustrations of these changes include section 81-412, where the due date for rental leases is proposed to be changed in order to reflect proper accounting procedures. In several instances, such as in sections 81-608 and 81-613, papers are to be filed with the Board of Land Commissioners. Administrative functions should be handled by the Department, not the Board; it is recommended that these sections be changed to reflect such a division of responsibility. In addition, references to the new Commissioner of State Lands were placed in sections 81-921 and 81-931 pertaining to the signing of certificates of purchase and patents. The old references to Commissioner of State Lands and Investments in those two sections were changed to the new Commissioner of State Lands, as it seems proper that the highest official in the Department place his signature on these documents. Technically, this gives the new Commissioner a duty he did not have after reorganization.

Many sections now empower the Department to assess fees for

administrative functions such as the issuance and filing of leases. All references to fees in individual sections were deleted, and a provision was added to section 81-108 to give the Department the general power to assess fees. In all, 14 sections are proposed to be substantively amended.

For the most part, only sections requiring name changes were amended. However, a few sections that required no name changes were so poorly written that they also needed style changes and updating of language. Altogether, 116 sections are proposed to be amended.

Fifty sections were found to be either superseded by other laws, including the Reorganization Act, declared unconstitutional by the Montana Supreme Court, or obsolete and no longer needed and are, therefore, proposed to be repealed.

A section-by-section indication of the proposed disposition of each section of the land laws is contained in the attached reference table.

REFERENCE TABLE--RECODIFICATION OF LAWS OF DEPARTMENT OF STATE LANDS

This table shows the disposition in the proposed recodification of every section of the Revised Codes of Montana pertaining to the Department of State Lands. It indicates, in the case of each section, whether it is proposed to be amended, repealed, or not changed (that is, neither amended nor repealed). If the section is proposed to be amended or repealed, it also indicates the reason for the amendment or repeal. Some sections are also proposed to be renumbered--placed in more appropriate chapters or in a different order in the same chapter. When this is proposed, it is indicated in parentheses following the word "amended".

Section	Change	Reason
16-1715	No change	
50-702	Amended	Name and style changes
50-1101 through 1104	Repealed	These sections contain the Dredge Mining Regulation and Land Preservation Act, which was declared unconstitutional in Sigety v. State Board of Health, 482 P.2d 574.
81-101	Repealed	This section creates the department of state lands and investments which was abolished in 82A-1102.
81-102	Amended	This definition section was completely rewritten to properly subdivide the section.
81-103	Amended	Name and style changes, and much superfluous language removed. A sentence was added to make it clear that the Board of Investments has the investment authorities of the funds arising from state lands.

Section	Change	Reason
81-104	Amended	This section, relating to meetings of the Board, was substantitively changed to require the Board to meet at least once a month instead of the second Wednesday of each month, which requirement was never followed. The Board has inherent power to formulate rules, and it is required to keep minutes of its meetings under section 81-3403, so these provisions were removed.
81-201	Repealed	This section pertains to the appointment of the Commissioner of State Lands and Investments, which position was abolished in section 82A-1101(2).
81-202	Repealed	This section pertains to the State Forester, which was abolished in section 82A-1505(3).
81-203	Repealed	This section pertains to the abolished office of Commissioner of State Lands and Investments.
81-204	Amended (Renumbered 81-105)	Name and style changes. References to investment functions are removed, as the Board of Investments invests all funds.
81-204.1	Repealed	This section relates to the fact that triplicate receipts are no longer required. Such a law is superfluous.
81-205	Amended (Renumbered 81-1122)	Name and style changes. Section moved to miscellaneous provisions, for it does not fit in chapter 2.
81-207	Repealed	This section relates to a subordinate position in the Department, and such positions should not be specified in the law.
81-208	Repealed	This section provides for an oath of office for positions no longer provided for, so it is not needed.

Section	Change	Reason
81-209	Repealed	This section provides for the salary of an abolished office, so it is not needed.
81-210	Repealed	This section, eliminating fees established by statute, is not needed, since the new fee section, section 81-1113, replaces it.
81-301	Amended	Name and style changes and elimination of superfluous language.
81-302	Amended	Name and style changes and subdivided for clarity.
81-303	No change	
81-304	Amended	Style changes and elimination of superfluous language. The validating language in the first part of paragraph (3) is not necessary, for the repeal of a validating statute cannot affect vested rights.
81-305	Repealed	This section was considered unconstitutional in a 1942 attorney general's opinion, and it appears the opinion is correct. For this reason the section has never been used and it seems to be useless, thus it should be repealed.
81-306	Repealed	This section was for a single purpose which has passed, thus the section should be repealed.
81-401	No change	
81-402	Amended	Name and style changes
81-404	Amended	Name and style changes, and properly subdivided.
81-405	Amended	Name and style changes
81-406	Amended (Renumbered 81-421.1)	Name and style changes, and renumbered to place it in the area pertaining to laws for the value of improvements.

Section	Change	Reason
81-407	Amended	Name and style changes
81-408	No change	
81-410	No change	
81-411	No change	
81-412	Amended	Name and style changes. This section was substantively changed. The due date for lease payments was changed from December 15 to the last day of February. This was done at the recommendation of the Department to reflect proper accounting procedures. Also, the reference to fees was stricken as this is covered in section 81-1113.
81-413	Amended	Name and style changes
81-414	Amended	Name and style changes. The reference requiring the lessee to send the lease in when a change in the terms is made was deleted as it is an impractical and unnecessary requirement. Also, the provision providing for penalties in case of a wrongful cultivation of land was rewritten in order to clear up certain inconsistencies.
81-415	Amended	Name and style changes
81-416	Amended	Name and style changes
81-418	Amended	Style changes. This section included a reference to a repealed law, i.e., section 52-301. The appropriate language from that section was added to 81-418, since that language still applies in this instance.
81-419	Amended	Name and style changes. A substantive change was made by having the Department do the administrative task of prescribing blanks, instead of the Board doing it. As a practical matter, this is the way it is done.

Section	Change	Reason
81-420	No change	
81-421	Amended	Name and style changes
81-422	Amended	Name and style changes
81-422.1	Repealed	This section, providing for cancellation of leases, is unnecessary as such cancellations are covered in other specific sections.
81-423	Amended	Style changes, and superfluous language removed
81-424	Amended	Style changes, and superfluous language removed
81-425	No change	
81-426	Amended	This section was substantively changed so that the Department would have the administrative task of keeping records of pledgees and mortgagees. The fee provision was deleted since the general fee section (81-1113) will replace it.
81-427	No change	
81-428	Amended	Name and style changes. Fee provision is provided for in section 81-1113.
81-429	No change	
81-430	No change	
81-431	No change	
81-433	Amended	Name and style changes, and subdivided for clarity.
81-434	No Change	
81-436	Amended	Name and style changes
81-501	Amended	Style changes, and superfluous language removed

Section	Change	Reason
81-502	Amended	Style changes, and superfluous language removed. The fee provision is provided for in section 81-1113. The second paragraph is not needed as it will be obsolete by the time the 1973 legislature meets.
81-503	No change	
81-504	No change	
81-505	No change	
81-506	Amended	Style changes. The reference to section 81-406 must be changed; it is renumbered 81-421.1.
81-507	No change	
81-508	Amended	Name and style changes. This section, pertaining to reports of leases, was substantively amended, on the recommendation of the Department. The amendment would require reports only for producing leases, and also changes the reporting date. Requiring reports for nonproducing leases only adds meaningless paper work for the Department and the lessee. These changes make the reporting requirements for all leases uniform.
81-509	No change	
81-510	Amended	Name changes. This section was rewritten to clear up the ambiguities that were created by the former section. It now accurately states the law, according to an opinion of the attorney general dated September 15, 1970.
81-601	Amended	Style changes and properly subdivided
81-602	Amended	Style changes and superfluous language removed
81-603	Amended	Style changes and superfluous language removed
81-604	Amended	Style changes and superfluous language removed

Section	Change	Reason
81-605	Amended	Style changes and superfluous language removed
81-606	Amended	This section was completely rewritten in order to properly state its purpose. A minor substantive change was made where the Department instead of the Board now prescribes the form of applications for leases. This is an administrative function. The fee provision is now provided for in section 81-1113.
81-607	Amended	Style changes and superfluous language removed. A minor substantive change was made in that bonds are filed with the Department rather than the Board.
81-608	Amended	Style changes, and superfluous language removed. A minor substantive change was made in that bonds are filed with the Department and not the Board.
81-609	No change	
81-610	No change	
81-611	Amended	Style changes, and superfluous language removed. Minor substantive changes were made here in that the Department, rather than the Board, will make investigations of land. This is how it is done in practice.
81-612	Amended	Style changes, and superfluous language removed
81-613	Amended	Style changes. and superfluous language removed. A minor substantive change was made in that assignments of leases are filed with the Department, rather than the Board.
81-614	Amended (Renumbered 81-2305)	Style changes, and superfluous language removed. This section has been moved to chapter 23, since it pertains to stream beds and not to mining leases.

Section	Change	Reason
81-615	Amended (Renumbered 81-601.1)	Name and style changes, and obsolete language removed. Since this section provides for prospecting permits, it is placed before other references to prospecting permits in this chapter.
81-616	Amended	Name and style changes
81-617	No change	
81-618	Repealed	This section, providing for repealing of certain laws in 1937, is obsolete.
81-619	Repealed	This section provides for the validation of certain prospecting permits. Since such permits no longer exist, there is no further use for this section.
81-620	Repealed	This section relates to section 81-619, thus, it is no longer needed.
81-701	Amended	Style changes, and superfluous language removed.
81-702	Amended	Style changes, and superfluous language removed. This section was substantively changed, at the recommendation of the Department, to require reports for only producing leases. Reports for non-producing leases are useless. Also, the reporting date was changed so that reporting requirements for all leases are uniform.
81-703	No change	
81-704	Amended	Name and style changes
81-801	Amended	Name and style changes
81-802	Amended	Style changes, and superfluous language removed
81-803	Amended	Name and style changes. A minor substantive change was made to provide that applications for easements shall be made to the department. This is a mere administrative function which the department should perform.
81-804	No change	
81-805	No change	

Section	Change	Reason
81-901	Amended	Style changes. In Hughes v. State Board of Land Commissioners, 137 Mont. 510, this section was held to conflict with section 81-1725 insofar as the reference to gas is concerned; the reference to gas has, therefore, been removed.
81-902	Amended	Style changes, and superfluous language removed. Also, a correction was required that referred to "state lands."
81-903	No change	
81-904	No change	
81-905	No change	
81-906	No change	
81-907	No change	
81-908	No change	
81-909	No change	
81-910	Amended	Name and style changes
81-912	Amended	Name and style changes
81-913	No change	
81-915	Amended	Name and style changes. The fee provision is now provided for in section 81-1113.
81-916	Repealed	This section provides for conversion of certificates of purchase issued prior to 1923. No such certificates exist, thus, the section is obsolete.
81-917	Amended	Style changes. This section included a reference to a repealed law (section 52-301). The appropriate language from that section was added to 81-418, since that language still applies in this instance.
81-918	No change	
81-919	Amended	Name and style changes

Section	Change	Reason
81-920	No change	
81-921	Amended	Name and style changes. This section pertains to the issuance of certificates of purchase from the state. There is a provision for the former Commissioner of State Lands and Investments to sign these certificates. It seems the new Commissioner of State Lands should also sign these certificates. By providing that the new commissioner of state lands sign the certificates, a new duty is given him. Thus, a technical substantive change has been made, but one that is needed to keep within the spirit of the law.
81-922	No change	
81-923	Amended	Name and style changes
81-924	Amended	Name and style changes. A substantive change was made by having the Department mail the notice of default instead of having the Board do it. This is an administrative function.
81-925	No change	
81-926	Amended	Name and style changes
81-927	Amended	Style changes and superfluous language removed
81-928	Amended	Name and style changes
81-929	No change	
81-930	Amended	Name and style changes. This section was rewritten in order to comply with a supreme court case interpreting the section (Christofferson v. Chouteau County, 105 Mont. 577, 583). The words "to cancel the taxes remaining unpaid" were held to mean only to cancel tax liens, otherwise the section would be unconstitutional. Thus, the term "tax liens" was substituted for the term "taxes remaining unpaid."
81-931	No change	

Section	Change	Reason
81-932	Amended	Name and style changes. (See section 81-921 for an explanation of a substantive change.)
81-933	No change	
81-934	Repealed	This section pertains to the validation of certain land contracts. Repealing the section can have no affect on such contracts, as they are now vested rights.
81-935	Repealed	This section refers to section 81-934, thus, it is also unnecessary.
81-936	Repealed	This section refers to section 81-934, thus, it is also unnecessary.
81-937 through 81-942	Repealed	These sections pertain to the sale of specific tracts of land in 1947. The powers and functions under this section have long since passed, and they are thus obsolete.
81-1101	Amended	Style changes and superfluous language removed. The first four lines of this section state a truism, and thus represent unnecessary verbiage.
81-1101.1	Amended	Name and style changes. This section provides for the acceptance of federal facilities and installations. The Board of Examiners previously had this power and, under the Reorganization Act, the Department of Administration would assume these powers. The Department of Administration has no real interest in a function such as accepting lands from the federal government, thus, the reference to Board of Examiners was changed to have the Board of Land Commissioners assume these duties. The section now conforms to other sections in this chapter where the Board accepts gifts, donations, etc.
81-1102	No change	
81-1103	Amended	Name and style changes
81-1104	No change	
81-1105	No change	

Section	Change	Reason
81-1106	No change	
81-1107	No change	
81-1108	Amended (Renumbered 81-106)	Name and style changes. This section gives the Board the authority to correct errors in deeds, etc. The section was renumbered to place it in chapter 1, since that chapter contains provisions giving powers to the Board, and this section fits in that general area.
81-1109	Amended (Renumbered 81-107)	Name and style changes. This section was also renumbered to place it in chapter 1, as that chapter contains general powers of the Department. The Department, instead of the Board, was given the duty of refunding money under this section. This is a substantive change but it pertains to an administrative function--one that the Department should perform.
81-1110	Amended	Name and style changes
81-1111	No change	
81-1112	No change	
81-1113	Amended (Renumbered 81-108)	This section pertains to fees that the Department can charge for certain services. The section was rewritten in general terms to cover all the services performed by the Department. This replaces a lengthy section enumerating fees for specific services, and it also replaces several specific enumerations in sections throughout title 81. The section was renumbered to place it in chapter 1, where the general powers of the Department are set out.
81-1114	No change	
81-1115	Amended	Name and style changes
81-1116	No change	
81-1117	Amended	Name and style changes
81-1118	Amended	Name and style changes

Section	Change	Reason
81-1119	Amended	Name and style changes
81-1120	No change	
81-1121	Amended	Style changes, and a correction with reference to a section number required.
81-1201	No change	
81-1202	No change	
81-1203	No change	
81-1301	Repealed	This section was passed in 1935 in order to procure federal funds. It is no longer needed.
81-1601	Amended	Name and style changes
81-1602	No change	
81-1603	No change	
81-1604	Amended	Name and style changes
81-1701	No change	
81-1702	Amended	Style changes and superfluous language removed
81-1702.1	Amended	Name and style changes. This section combines three sections into one. The provisions of section 81-1702.3 are included in this section, and the appropriate provisions of section 81-1703 are included. Section 81-1703 was identical to this section, except it changed the rental rate for leases issued before March 3, 1955. The difference is now accurately reflected in this section, and by combining these three sections a page in the Revised Codes can be eliminated.
81-1702.2	Amended	Style changes, and superfluous language removed.
81-1702.3	Repealed	This section provides that sections 81-1703 and 81-1706 do not apply to leases issued after 1955. This provision has been added to sections 81-1703 and 81-1706; therefore, section 81-1702.3 is unnecessary.

Section	Change	Reason
81-1703	Repealed	The substance of this section has been placed in section 81-1702.1. (See section 81-1702.1 for a further explanation of why this section was repealed.)
81-1704	No change	
81-1705	Amended	Name and style changes
81-1706	Amended	Name and style changes. The second paragraph relates to the possible modification of leases issued before 1927. Since the oldest existing oil and gas lease was issued in 1938, this paragraph is obsolete.
81-1707	No change	
81-1708	No change	
81-1710	No change	
81-1711	No change	
81-1712	Amended	Name and style changes. A reference to the 1889 Constitution was deleted.
81-1713	Repealed	This section, accepting powers under a federal act passed in 1889, is no longer needed, and it appears that such a section was never required by federal law.
81-1714	Repealed	This section, providing for the correction of certain errors, is adequately covered by sections 81-1108 and 81-1109, now renumbered 81-106 and 81-107 respectively.
81-1715	No change	
81-1716	Amended	Name and style changes. The reference to a bond in the seventh sentence has been removed, as the law relating to that bond (section 81-1709) was repealed in 1969.
81-1717	Amended	Style changes and superfluous language removed.
81-1718	Amended	Name and style changes. The second half of this section pertains to oil and gas leases issued prior to 1927. The oldest existing oil and gas lease was issued in 1938; therefore, that language is obsolete and is deleted.

Section	Change	Reason
81-1719	No change	
81-1720	Amended	Style changes. This section was substantially rewritten to clearly state the intent of the law.
81-1721	No change	
81-1722	No change	
81-1723	No change	
81-1724	Repealed	This section is a repealing clause. Such clauses add nothing to the law according to the Montana Supreme Court, in the case of Charette v. District Court, 107 Mont. 489. This section also states that it does not repeal sections 60-101 through 60-104. Those sections were repealed in 1953.
81-1725	No change	
81-1726	Amended	Style changes and superfluous language removed.
81-1727	No change	
81-1728	Amended	Style changes, and superfluous language removed.
81-1729	Amended	Style changes, and superfluous language removed.
81-1730	Amended	Name and style changes
81-1731	Amended	Name and style changes
81-1801	No change	
81-1802	No change	
81-1803	No change	
81-1804	No change	
81-1805	No change	
81-1806	No change	
81-2201	Amended	Style changes, and superfluous language removed.

Section	Change	Reason
81-2202	Amended	Name and style changes
81-2203	Amended	Name and style changes
81-2204	Amended	Name and style changes
81-2205	Amended	Style changes and superfluous language removed.
81-2206	No change	
81-2301	No change	
81-2302	Amended	Style changes and superfluous language removed.
81-2303	Amended	Name and style changes
81-2304	Repealed	This section validates actions by the Department of State Lands and Investments prior to 1937. The section is no longer needed, because repeals of validating statutes cannot affect vested rights.
81-2401	No change	
81-2402	Amended	Style changes and removal of obsolete language.
81-2403	Amended	Style changes and superfluous language removed. The reference to "board" in this section was changed so that the complete name of the Board is written out. This was done because it is the first reference to "board" in this chapter. (The first reference to a Board or Department in a chapter is completely written out so that a reader will not have to refer to the definition section in chapter 1, to determine what Board or Department the reference refers to.)
81-2404	Amended	The reference to "department" in this section was changed so that the complete name of the Department is written out. (See section 81-2403 for an explanation of this amendment.)

Section	Change	Reason
81-2405	Amended	The references to "act" throughout title 81 were changed to "chapter," if chapter could properly be substituted for act. This was done in order to limit the application of a section to the area in the title where the section applies, namely, the specific chapter in which the section appears. Prior to this change, a reference to "act" would apply to all of title 81, because most of title 81 is one act. However, the intent of the Legislature in referring to "act" was to refer only to specific sections or specific chapters in title 81. In several instances a reference to "act" was changed to a specific section, where it could be positively determined that the term "act" referred to a specific section.
81-2406	Amended	Style changes and superfluous language removed. A correction in a reference to another section number was also made.
81-2407	Amended	The reference to Board of Land Commissioners in this section must be changed to Board of Investments, in accordance with section 82A-205 (h) of the Executive Reorganization Act. The Board of Investments has the duty of investing all funds.
81-2408	Amended	Style changes
82-904	Repealed	This section repeats Article XI, section 4 of the Constitution and, therefore, it merely adds unnecessary verbiage to the codes.
82-A1101	Amended	This section had to be amended to conform to the numbering system of the new constitution of Montana.
82A-1101.1	Added	A section of this type will be added to the laws of each department in the Executive Reorganization Act (Title 82A). The purpose of this section is to catalog in one section the primary laws the Department administers. This approach was used in the recodification of the health laws in 1967.

Section	Change	Reason
82A-1102	Repealed	All transfer sections in the Executive Reorganization Act should be repealed, as the transfer will already have taken place by 1973, and these sections will then be obsolete.
82A-1103	Repealed	This is also a type of transfer section that will be obsolete by the time the 1973 Legislature convenes.
82A-1104	Amended	This section created the Commissioner of State Lands. The section was amended in order to clarify the Commissioner' authority to perform administrative functions without the Board having to delegate such functions to him.
83-105	Repealed	This section, which provides that certai minerals in Glacier National Park may be conveyed to the United States, is now obsolete. The transfer of minerals has taken place.

COMMITTEE ON STATE ADMINISTRATION

BILL NO.	ENTERED COMM.	OUT OF COMM.	DO PASS	DO NOT PASS	DO PASS AS AMENDED	BE CONCURRED IN	BE CONCURRED IN AS AMENDED	BE NOT CONCURRED IN	
HB 64	1/18/73	2/28/73						XX	
HB 101	1/29/73	2/28/73						XX	
HB 105	1/26/73	2/28/73				XX			
HB 313	2/19/73	3/2/73				XX			
HB 482	2/19/73	3/2/73						XX	
SR 18	2/26/73	3/2/73							BE ADOPTED
HB 440	2/24/73	3/2/73				XX			
HB 496	2/24/73	3/2/73						XX	
HB 439	2/20/73	3/5/73							BE HELD OV
HB 573	2/26/73	3/5/73				XX			

M I N U T E S

Senate Committee On
STATE ADMINISTRATION

The twenty-sixth meeting of the Senate Committee on State Administration was called to order by Chairman David F. James at 8:10 a.m. on Monday, March 5, 1973. Roll call was taken, and a quorum present.

HOUSE BILL NO. 439: Mr. Ron Richards from the Governor's Office testified on the bill. He stated that the Governor has strongly endorsed the principle involved in this bill, and has a desire to make the state government more responsive to the people. However, it was felt that this bill would duplicate what the Governor is trying to do now, and the Governor hoped that the legislature would give him a chance to see if these programs were working before initiating an office of ombudsman. Mr. Richards stated that the Governor's office is now handling approximately 45 complaints a week.

Representative Max Baucus, sponsor of House Bill 439, testified that essentially the Governor's office is opposing the bill. He said that the ombudsman has worked very well in the states where it is established, and that these states feel there is no need for a change in the way their law is written.

Mr. Steve Coldiron, Just Us, Incorporated, also testified in favor of House Bill 439. He stated that he would like to rise in opposition to any move to hold this bill over until next year. He suggested that the committee members re=read the bill very carefully in that previous testimony had shown through experiences of other states that an ombudsman is needed.

Chairman James made a few comments on House Bill 439. He suggested that there is a definite difference between an ombudsman and a citizens' advocate, and that unless we have proof that the Governor's programs are not working, maybe we shouldn't spend the money at this time.

After lengthy discussion and questions, Senator Devine made a motion that the committee recommend House Bill 439 BE HELD OVER until the second half of the 43rd legislative session in January, 1974. The motion was seconded by Senator Nees. Senator Rosell then made a substitute motion that the committee recommend House Bill 439 BE NOT CONCURRED IN. The substitute motion was seconded by Senator McDonald, but failed to carry. A vote was taken on the original motion to HOLD THE BILL OVER, and this carried.

HOUSE BILL NO. 573: Representative Bardanouve was present to testify as sponsor of this bill. He said that this was probably the best of the series of recodification bills, and that it was the first one to be drafted. This bill had been carefully analyzed by the Department of Lands and the Commission on Executive Reorganization. The Legislative Council had also appointed a subcommittee which reviewed the bill in depth and approved it. Representative Bardanouve further stated that this bill does not alter the administration of the Department of Lands or make any attempt at major changes.

Other proponents of the bill were: Ted Schwinden, Commissioner, Department of State Lands, who stated that he had read the entire recodified bill against the statutes; George Bousliman; and Norman Grosfield, a lawyer from the Executive Reorganization office, who stated that he had worked on the drafting of the bill. Mr. Schwinden and Mr. Grosfield were called upon to answer questions of the committee members.

Senator Devine made a motion that the committee recommend House Bill No. 573 BE CONCURRED IN. The motion was seconded by Senator Bennett and carried unanimously.

There was further discussion among the committee members regarding House Bill 496, collective bargaining of firemen. After this discussion, the committee agreed that it was better to take no further action on the bill since it was too late to amend it, and the bill as it stands is not a good one.

The committee also decided to make it the first order of business at the meeting on Wednesday, March 7, to take up the confirmation of the balance of the Governor's appointments. The meeting was adjourned at 10:00 a.m.

JAMES

(3) Before the first day of the calendar month following that in which a return is filed, the respective airport board or governing authority shall:

(a) audit the return;

(b) make any exceptions to the report in writing to the air carrier. If none is made, the report and remittance will be deemed correct;

(c) in the case of a jointly operated airport, the carrier will remit to the governing board who shall be responsible for its proper disposition as directed by the governing bodies in accordance with the provisions below.

(4) All service charges received by counties and cities under the provisions of this act shall be deposited in the airport fund of the county or city or in the joint airport fund of the city and county and shall be used for construction, improvement, operation, maintenance, protection and repair of its public airport or for the retirement of bonds issued for the construction, improvement or other expenditures of the airport, including the protection of aircraft passengers, crews and air carrier equipment.

Section 3. Nothing in this act shall prevent a passenger air carrier from collecting, directly or indirectly, the service charge payable for each paying passenger from the passenger, but the air carrier shall collect the service charge only if it enters into a voluntary agreement to do so.

Section 4. If any person, firm, or corporation subject to the provisions of this act fails or neglects to pay the service charges, the same may be collected through civil proceedings in an appropriate court. Passengers refusing to pay said service charge shall be guilty of a misdemeanor, punished accordingly, and, also, they may be refused permission to enplane.

Section 5. Air carrier may, by contract with the airport board or authority involved, collect the charge from the passenger, and in so doing, be entitled to a fee for doing so. This may be a percentage of said charge. Or, the airport board or authority may collect the charge directly from the enplaning passenger. *Provided, however, no passenger shall pay more than one (1) charge during any twenty-four (24) hour period, even though they may board several planes in different Montana cities during that period. In such cases, only the charge, if any, in effect at the first airport used during said twenty-four (24) hour period shall govern. No other charge shall be payable at any other airport by that same passenger during the same twenty-four (24) hour period.*

Section 6. This act is effective thirty (30) days after its passage and approval.

Approved: March 21, 1973.

CHAPTER NO. 428

An Act for the Codification and General Revision of the Laws Relating to the Department of State Lands, and Providing That This Act Is Effective Upon Its Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 50-702, R.C.M. 1947, is amended to read as follows:

"50-702. **Record of certificate of location.** Within sixty (60) days after posting the notice of location, the locator shall record his location in the office of the county clerk of the county in which *the* mining claim is situated, and within twenty (20) days thereafter the county clerk shall provide a copy thereof to the department of state lands, Helena, Montana. *The* record shall consist of a certificate of location for each claim containing:

1. The name of the lode or claim and whether located as a lode or placer claim.

2. The name of the locator or locators, if there be more than one, together with the post-office address of such locator or locators.

3. The date of location, and *the* description of *the* claim, with reference to some natural object or permanent monument, as will identify the claim and the section, township, and range wherein the claim is situated (by projected survey lines if located in unsurveyed country).

4. The directions and distances from the discovery point which describe the claim.

The certificate of location must be varified, before some officer authorized to administer oaths, by the locator, or one of the locators if there be more than one, or by authorized agent. In the case of a corporation, the verification may be made by any officer thereof, or by an authorized agent. When the verification is made by an agent, the fact of the agency shall be stated in the affidavit. A certificate of location so verified, or a certified copy thereof, is prima facie evidence of all facts properly recited therein. Failure of the locator or locators to record a certificate of lo-

cation as herein required shall create a prima facie presumption of intent to abandon. However, recordation after the sixty (60) day period, but before the ground is located by another renews the location and saves the rights of the original locator. Nothing contained in section 50-713 *affects* the prima facie presumption created by this section."

Section 2. Section 81-102, R.C.M. 1947, is amended to read as follows:

"81-102. **Definitions.** *Unless the context requires otherwise, in this title: (1) "Department" means the department of state lands provided for in title 82A, chapter 11.*

(2) "Board" means the board of land commissioners provided for in article X, section 4 of the constitution of this state.

(3) "Commissioner" means the commissioner of state lands provided for in section 82A-1104.

(4) "State land" or "lands" means lands granted to the state by the United States for any purpose, either directly or through exchange for other lands; lands deeded or devised to the state from any person; and lands that are the property of the state through the operation of law. The term does not include lands the state conveys through the issuance of patent, or those lands used for building sites, campus grounds, or experimental purposes by any state institution that are the property of that institution."

Section 3. Section 81-103, R.C.M. 1947, is amended to read as follows:

"81-103. **Powers and duties of board.** The board shall exercise general authority, direction, and control over the care, management, and disposition of state lands, and *subject to the investment authority of the board of investments,* the funds arising from the leasing, use, sale, and disposition of *those* lands or otherwise coming under its administration. In the exercise of these powers, the guiding rule and principle *is* that these lands and funds are held in trust for the support of education, and for the attainment of other worthy objects helpful to the well-being of the people of this state; and the board *shall* administer this trust to secure the largest measure of legitimate and reasonable advantage to the state. *The board shall* manage these lands under the multiple-use management concept defined as: The management of all the various resources of the state lands so that they are utilized in that combination best meeting the needs of the people and the beneficiaries of the trust, making the most judicious use of the land for some or all of those resources or related services over areas large enough to provide sufficient latitude for periodic adjustments

in use to conform to changing needs and conditions; that some land will be used for less than all of the resources, and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources."

Section 4. Section 81-104, R.C.M. 1947, is amended to read as follows:

"81-104. **Meetings of board.** The board shall hold regular meetings *at least once* each month, and may hold special meetings whenever *considered* necessary, upon call of the president or a majority of the members. Three *(3)* members of the board constitute a quorum for the transaction of business. The governor *is* the president of the board; in his absence the lieutenant governor, *shall preside, and in his absence* the superintendent of public instruction shall preside."

Section 5. Section 81-204, R.C.M. 1947, is renumbered section 81-105, and is amended to read as follows:

"81-105. **Powers and duties of** *the department.* Under the direction of the board *of land commissioners, the department has* charge of the selecting, exchange, classification, appraisal, leasing, management, sale, *or* other disposition of the state lands. *It* shall perform such other duties the board *directs,* the purpose of the department *demands,* or the statutes require. *It* shall collect and receive all moneys payable to the state through *its* office as fees, rentals, royalties, interest, penalties, *or* payments on mortgages or lands purchased from the state or derived from any other source. *It* shall issue a receipt for each cash payment, or whenever requested by the payer."

Section 6. Section 81-205, R.C.M. 1947, is renumbered section 81-1122, and is amended to read as follows:

"81-1122. **Reports by state treasurer.** On or before the tenth day of each calendar month, the state treasurer shall report to the *department* the amount of money received by him during the preceding month from each source, except from the *department,* for each income fund and each permanent fund arising from a federal land grant or otherwise under the control of the board, the amount paid out from each income fund or permanent fund during *the* month and the object of such payment, and the balance uninvested in each fund. *These* reports shall be on such forms and contain such additional information the *department prescribes* and the board *approves."*

Section 7. Section 81-301, R.C.M. 1947, is amended to read as follows:

"81-301. **Selection and location of lands granted by United States.** Under the general direction of the board of land commissioners and as rapidly as the appropriations for the work will permit, the *department* shall *select* and *locate* all lands, except timberlands, granted to this state by the United States for any purpose, and not located by the grant itself. *It* shall also *select* and *locate* lands in lieu of all those lands in sections sixteen *(16)* and thirty-six *(36)* and in the other federal land grants which for any reason have been lost to the state. All selections shall as far as possible be in legal subdivisions. In the selection and location of these lands, careful attention shall be given to the water available and which may be appropriated for these lands for domestic use, livestock, and irrigation."

Section 8. Section 81-302, R.C.M. 1947, is amended to read as follows:

"81-302. **Classification — reclassification — records.** *(1)* The *state* lands *are* classified as follows:

(a) Class 1. Grazing lands, being all those lands which are valuable only for grazing purposes.

(b) Class 2. Timberlands, being all those lands which are principally valuable for the timber that is on them.

(c) Class 3. Agricultural lands.

(d) Class 4. Lands within the limits of any town or city or within three *(3)* miles of *those* limits.

(2) The third class, agricultural lands, *is* subdivided into two *(2)* classes as follows:

(a) Irrigable lands.

(b) Nonirrigable lands.

(3) The fourth class *is* subdivided as follows:

(a) Lands within the limits of any town or city.

(b) Lands not within such limits but within three *(3)* miles thereof.

(4) The classification shall be so made as to place each *forty (40) acre* tract or lot in the class to which it properly belongs.

(5) If lands formerly nonirrigable become irrigable, *or if* new towns or cities are located and platted, *or in any other case* when the board *considers* it necessary, the lands affected shall be reclassified so that no state land will be sold under a different classification from that to which it actually belongs.

(6) All field books, plats, maps, and records of the department shall show the class to which each tract therein belongs, and whether it belongs to the public schools of the state or to *a* state *institution* or other entity according to the grant or instrument by which title to *the* land has passed to the state; they shall also show whether or not the coal or other minerals in the land are reserved by the United States, and shall contain *any other* information the *department considers* necessary."

Section 9. Section 81-304, R.C.M. 1947, is amended to read as follows:

"81-304. **Exchange of lands with United States and counties — validation of prior actions.** *(1)* The board *may* enter into contracts or agreements with the United States, or any department thereof having jurisdiction, for the waiving and relinquishment to the United States of any rights of the state in and to sections sixteen *(16)* and thirty-six *(36)* of any township and to any other sections of state lands, provided that the state shall in lieu of the rights so waived and relinquished receive from the United States other lands of equal or greater value.

(2) The board *may* accept on behalf of the state title in fee simple to any land owned by a county in the state, and *may* convey in exchange therefor *state* land of approximately the same area and of a value not higher than the land received from the county *if the* exchange will result in consolidating the *state* lands into more compact bodies.

(3) The current user of the land transferred to the United States *may* continue to enjoy *the* use of *the land under* terms and conditions required by the federal government and in accordance with the Multiple Use Act, and the current user on the land received from the United States *may* continue to utilize the land on the terms and conditions imposed by law or by the board."

Section 10. Section 81-402, R.C.M. 1947, is amended to read as follows:

"81-402. **Lease of state lands — *crop* share rental basis used.** (1) Under the general direction and control of the board of land commissioners, the *department* shall lease all agricultural and grazing lands and all town and city lots open to leasing upon proper application. *As* to agricultural lands, all leases shall be continued or made upon a crop share rental basis of not less than one-fourth (¼) of the annual crops to the state, or the usual landlord's share prevailing in the district, whichever is greater.

(2) In unusual cases the *department* may authorize a lease upon other basis *than* crop share, but in *these* unusual cases the

rental shall at least equal the value of the usual landlord's share prevailing in the district, and the *department* shall set forth in the records the unusual conditions of the case and the rental to be charged.

(3) The rental rate for *leasing* all state grazing lands shall be based upon the appraised animal-unit-month carrying capacity of the land as provided in section 81-433. *As* to town and city lots owned by the state, the fair rental value thereof shall be determined from time to time *by* the *department* with the approval of the board and record made thereof, and such town or city property may be leased at its current appraised rental value for terms not to exceed five (5) years.

(4) All leases of agricultural or grazing lands, or town or city lots, shall be upon condition that the board may, in its discretion, offer *the* land for sale at any regular public sale of state lands held in the county where the land is situated, upon the same terms, and in the same manner as land not under lease."

Section 11. Section 81-404, R.C.M. 1947, is amended to read as follows:

"81-404. **Appraisal of grazing lands.** *(1) The department shall appraise* the grazing *lands* owned by the state as to *their* animal-unit-month carrying capacity, and make and preserve *records* thereof in *its* office, and from time to time *re-examine these* lands as to their animal-unit-month carrying capacity so as to keep the records thereof in *its* office reasonably accurate.

(2) In appraising *these* grazing lands the following factors shall be taken into consideration:

(a) Inventory of the forage resources—kind, amount, and location of vegetation.

(b) Accessibility and usability of this forage resource as influenced by topography, availability of stock water, and season of usability.

(c) Condition of soils—the erosion situation.

(d) Other and related resources—such as timber, game animals, need for watershed protection.

(e) Record of needed improvements and facilities—fuel and stock water, revegetation, rodent control, trails, fences, and the like.

(f) Pertinent facts and figures submitted by stockmen living in the area and directors of state grazing districts including the land or in its vicinity.

(g) Carrying capacity net for similar land in a state grazing district in which the land is situated."

Section 12. Section 81-405, R.C.M. 1947, is amended to read as follows:

"81-405. **Renewal leases—preference right of lessee.** *(1)* A lessee of state land classed as agricultural, grazing, town lot or city lot, who has paid all rentals due from him to the state, and who has not violated the terms of his lease, *is* entitled to have his lease renewed for a five (5) or ten (10) year period at the rental rate provided by law for the renewal period, and subject to any other conditions at the time of the renewal imposed *by law* as terms of *the lease* at any time within thirty (30) days prior to its expiration if no other applications for lease of the land have been received thirty (30) days prior to the expiration of his lease. *If* other applications have been received, the holder of the lease has the perference right to lease the land covered by his former lease *by meeting* the highest bid made by any other applicant. Applications for lease of lands in this section shall be given preference in the order of their receipt at the office of the *department.*

(2) Notwithstanding the foregoing provisions, the board *may* withdraw any agricultural or grazing land from further leasing for such period as the board *determines* to be in the best interest of the state. *Bids* for leases and applications for renewals of leases of state agricultural lands or state grazing lands shall be in writing and sealed and shall be submitted to the board at the office of the *department.*"

Section 13. Section 81-406, R.C.M. 1947, is renumbered section 81-421.1, and is amended to read as follows:

"*81-421.1.* **Arbitrators to fix value of improvements—appeal.** If the owner of any improvements on state lands of the type authorized by law at the time they were placed thereon desires to sell *these* improvements to the new lessee, and they are unable to agree on the value thereof, *the* value shall be ascertained and fixed by three (3) arbitrators, one of *whom* shall be appointed by the owner of the improvements, one by the new lessee and the third by the two (2) arbitrators so appointed. The reasonable compensation that *the* arbitrators may *fix* shall be paid in equal shares by the owner of the improvements and the new lessee. The value of *the* improvements so ascertained and fixed *is* binding on both parties, however, if either party is dissatisfied with the valuation so fixed, he may within ten (10) days appeal from their decision to the *department which* shall examine *the* improvements, and *its* decision shall be final. The *department* shall charge and collect the

actual cost of *the* re-examination to the owner and the new lessee in such proportion as in *its* judgment justice may demand. The value of *the* improvements shall be ascertained and fixed as *section 81-421 provides.*"

Section 14. Section 81-407, R.C.M. 1947, is amended to read as follows:

"81-407. **Who may lease—how much and for what length of time.** No *person may* lease state lands, except one who is the head of a family, unless he has attained the age of nineteen (19) years. Any such person and any association, company, or corporation authorized to hold lands under lease may lease state lands, *and may hold more than one (1) lease to state lands,* and there may be included under one *(1)* lease tracts of lands embracing more than one (1) section. No lease to agricultural or grazing lands *may* be for a period other than five (5) or ten (10) years. Leases for city and town lots *may* not exceed five (5) years. When a lease expires or is canceled the *department* shall immediately notify the holder of the lease and all persons who have expressed an interest in leasing the land during, or immediately preceding, the term of *the* expired or canceled lease. If the legislature raises the rentals for state grazing lands during the term of any leases of grazing land which are not issued as a result of competitive bidding, the lessee shall, for the years after *the* increase become effective, pay *the increased* rental, and the terms of grazing leases shall so provide."

Section 15. Section 81-412, R.C.M. 1947, is amended to read as follows:

"81-412. **Rental, when due—cancellation for nonpayment.** The rental for the first year of the lease shall be paid at or before the time of the execution of the lease; however, in the case of leases which take effect on and after October 1 and before the expiration of the coming February, both the rental for the fractional year and for the next full year beginning March 1, shall be paid and collected at the time of issuing the lease. *If* the United States is the lessee of state lands for grazing purposes, the rental shall be payable at the end of each year of *the* lease. The rental for each succeeding year on leases *hereafter issued,* with the exception of leases wherein the United States is the lessee, *is* due and payable *before March 1,* and if not paid *by April 1* the lease *is canceled.* The *department* shall notify the lessee by letter addressed to the post-office address given in the lease of *the* cancellation, and the land *is* then open for lease to other applicants."

Section 16. Section 81-413, R.C.M. 1947, is amended to read as follows:

"81-413. **Land to be leased in compact bodies—inspections to determine best use of land.** All lands *shall* be leased in as compact bodies as possible, and care shall be taken not to separate parts of any section from the section lines or public highways or from any available water supply, or in *a* form *that will* make it more difficult to lease the remaining state lands in the section in which they are located. *If* there are applications or bids for renting certain land for grazing purposes and also applications or bids for renting the same land for agricultural purposes, an inspection of the land shall be made by the *department* at the earliest practical opportunity and *a* determination made, based on *its* findings, of the highest and best use which can be made of the land or portions thereof. *Any* lease of *the* land subsequent to *the* applications or bids shall be such as to return to the state revenue commensurate with *the* highest and best use."

Section 17. Section 81-414, R.C.M. 1947, is amended to read as follows:

"81-414. **Change in terms of lease.** *When* land is leased for grazing purposes, and the lessee desires to cultivate any part of the land, he shall, before doing any such cultivation, make application to the *department* stating how much land he desires to cultivate *and* showing the location in the section of *the* land, and agree that for the remainder of the term of the lease the annual rental shall be at the rate of the original lease until such time as the first crop is harvested from the cultivated portion of the lease. At the time of the first harvest, the lease shall be at the original rate for that portion remaining as grazing land plus the crop share rental for that portion cultivated. *If* any person *cultivates* lands leased for grazing purposes without first *securing* the right to do so *under this section,* the *department shall either cancel the lease,* subject to the appeal procedure provided in section 81-422, or *require the lessee to pay* twice the regular agricultural rental on the land so cultivated in addition to the grazing rental. The provisions of this section shall be incorporated in every lease."

Section 18. Section 81-415, R.C.M. 1947, is amended to read as follows:

"81-415. **Conditions of leases—cancellation for violation of rules.** *(1)* It shall be a condition of all leases of agricultural or grazing state lands, (a) that, in the case of agricultural lands, the lessee shall observe the ordinary rules for good management of agricultural lands and shall handle the leased land with the view of maintaining its productivity and *minimizing* wind and soil erosion and noxious weeds, and *planting* crops with a view of securing the greatest yields of good quality, and (b) that, in the case of

grazing lands, the lessee shall observe the ordinary rules for good range management and shall manipulate the numbers, class, distribution, and season of the range use and the handling, feeding, breeding, and marketing of grazing livestock with a view of securing the production of the maximum of livestock and livestock products, consistent with the conservation of the land resources and the perpetuation of its productivity, and to these ends the state land lease *may* not be abused by overgrazing.

(2) For the gross violation of any of *these* rules, the lease involved shall be *canceled* by the *department,* subject to the appeal procedure provided in section 81-422."

Section 19. Section 81-416, R.C.M. 1947, is amended to read as follows:

"81-416. **Form of lease—bond.** The general form of lease to state lands shall be prescribed by the board, and no changes in the form for *these* leases *may* be made without the approval of the board. All leases shall be issued in duplicate, one (1) copy shall be mailed to the lessee, and one (1) copy shall be preserved by the *department.* Unless the board decides otherwise, these leases shall be issued without bonds, but the board *may* require a bond and prescribe the form and conditions thereof whenever it *considers* it necessary."

Section 20. Section 81-418, R.C.M. 1947, is amended to read as follows:

"81-418. **Liens on crops and improvements.** The state *has* a lien upon all crops growing upon any of its lands, and upon *the* crops after they have been separated from the lands for any rentals and penalties due or delinquent under the lease on *the* lands, or becoming due during the calendar year in which *the* crops are harvested, for any year or part of *a* year that the land has been held or used by the lessee. *This* lien *applies* to all buildings, structures, fences, and all other improvements, *and is* prior and superior to all other liens, *except* threshermen's liens and seed liens specified in sections 45-701 and 45-801, which have priority, *but only for the aggregate amount of the indebtedness then existing, including any advances theretofore made, interest due and other charges as evidenced by the original loan-contract, and indebtedness thereafter accumulating on such basis, exclusive of any other future advances originally contemplated.* Any person acquiring any of *these* crops or improvements takes *them* subject to *this* lien. *The* department or the sheriff of the county in which the land is located may demand of the lessee payment of the amounts due the state, and if *they* are not paid upon demand, the officer making *the* demand, or the department, may seize *and* sell, either at *a* private

or public sale, upon giving notice for not less than three (3) days of *the* sale, sufficient of *those* crops or improvements, or of both, to pay the amounts due the state together with costs and expenses of seizure and sale. These provisions relating to liens on crops and improvements shall be embodied in all leases for agricultural and grazing lands and for town, city, or other lots."

Section 21. Section 81-419, R.C.M. 1947, is amended to read as follows:

"81-419. **Assignment of leases—preferences—fee.** Leases to state lands may be assigned on blanks *prescribed* by the *department,* but no assignment *is* binding on the state unless the assignment is filed with the *department,* approved by *it* and payment made of *the assignment* fee *under section 81-108.* Preference shall always be given to the applicant who wants the land for his own individual use, so that the full advantage coming from the leasing and use of *the* lands may reach those who actually till the soil, and so that they *are* not compelled to pay a higher rental than that due the state. If a lessee subleases state lands on terms less advantageous to the sublessee than the terms given by the state, or subleases state lands without filing a copy of the sublease with the *department* and without receiving *its* approval, the *department* shall cancel the lease, subject to the appeal procedure provided in section 81-422."

Section 22. Section 81-421, R.C.M. 1947, is amended to read as follows:

"81-421. **Compensation for improvements.** *(1)* A lessee of state lands *may* place upon the lands a reasonable amount of improvements directly related to conservation of the land or necessary for proper utilization of *it. These* improvements may consist of fences, cultivation, and improvement of the land itself, irrigation ditches, sheds, wells, and reservoirs, and similar improvements. *When* another person becomes the lessee of such lands, he shall pay to the former lessee the reasonable value of *these* improvements at the time the new lessee takes possession. *However,* if any of the improvements consists of breaking (meaning the original plowing of the land), and one (1) year's crops have been raised on the land after the breaking, the compensation for *the* breaking *may* not exceed two dollars and fifty cents ($2.50) per acre, and *if* two (2) or more crops have been raised on the land after the breaking, the breaking shall not be considered as an improvement to the land. *If* the former lessee and the new lessee are unable to agree on the reasonable value of *the* improvements, *the* value shall be ascertained and fixed as provided in *section 81-421.1.*

(2) In determining the value of these improvements, consideration shall be given to *their* original cost, *their* present condition,

their suitableness for the uses ordinarily made of the lands on which they are located, and to the general state of cultivation of the land, its productive capacity as *affected* by former use, and its condition with reference to *the infestation of* noxious weeds. Consideration shall be given to all actual improvements and to all known effects that the use and occupancy of the land have had upon its productive capacity and desirableness for the new lessee. The former lessee may, however, remove the movable improvements on the land *and dispose of them* to parties *other* than the lessee; if he fails to remove *the* improvements from the land within sixty (60) days from the date of the expiration of his lease, all of *the* improvements become the property of the state, unless the *department* for good cause *grants* additional time for *their* removal. Before a lease is issued to the new lessee he shall show that he has paid the former lessee the value of the improvements as agreed upon by them or as fixed and determined under section *81-421.1,* or that he has offered to pay the value of *the* improvements as so fixed and determined, or that the former lessee elects to remove the improvements."

Section 23. Section 81-422, R.C.M. 1947, is amended to read as follows:

"81-422. **Cancellation of leases.** *(1)* The *department may* cancel a lease for any of the following causes: fraud, misrepresentation, or concealment of facts relating to its issue, which if known would have prevented its issue in the form or to the party issued; using the land for other purposes than those authorized by the lease; and for any other cause which in the judgment of the *department* makes the cancellation of the lease necessary in order to do justice to all parties concerned and to protect the interests of the state. Such cancellation *does* not entitle the lessee to any *refund* of rentals paid or exemption from the payment of any rentals, penalties, or other compensation due the state.

(2) When the *department* cancels a lease pursuant to this section or sections 81-414, 81-415, *or* 81-419, *it* shall immediately notify the lessee by certified mail of *the* cancellation and the reasons therefor. The date of cancellation *is* fifteen (15) days from the date *the* notice is received by *the* lessee. The lessee *has* fifteen (15) days after the receipt of *the* notice to file *with the department* a notice of appeal *for a hearing before the board.* If notice of appeal is filed, the lease *remains* in effect until the decision of the board. Within ten (10) days after notice of appeal has been filed, the *department* shall set the time and place of hearing and shall so notify the lessee. The board may, after ten (10) days' notice to the lessee, change the time and place of hearing.

(3) Under rules it *adopts,* the board shall conduct an open

hearing to determine whether the lease should be reinstated. The burden of proof is on the lessee to show why the lease should not be canceled. If the lease is reinstated, all of the lessee's rights and privileges thereunder shall be preserved; if not, the land shall be open for releasing as provided by law. If the board finds that the terms of the lease have been violated, but in its judgment the violation is not serious enough to warrant cancellation, it may reinstate the lease and assess a penalty up to three (3) times the annual rental against the lessee."

Section 24. Section 81-423, R.C.M. 1947, is amended to read as follows:

"81-423. **Leasing regulations.** The board *may* prescribe rules and regulations relating to the leasing of state lands as it *considers* necessary in order that the use and proceeds of these lands may contribute in the highest attainable measure to the purposes for which they *are* granted to the state."

Section 25. Section 81-424, R.C.M. 1947, is amended to read as follows:

"81-424. **Lease of *state* land to United States for military purposes authorized.** *The* board, *when* it *considers* it in the public interest, may lease to the United States, for military purposes, any *state* land, whether such land was received by the state through federal land grants, or whether such land consists of so-called "mortgage lands," on such terms and conditions as it *considers* necessary to promote the public welfare and protect the interests of the state; rental shall be payable at the end of each year of *the* lease."

Section 26. Section 81-426, R.C.M. 1947, is amended to read as follows:

"81-426. **Filing with board required.** The pledge of such lease or the mortgage of such leasehold interest shall, within thirty (30) days after receipt of *the* pledge agreement or mortgage, file *it,* or a certified copy thereof, *with the department."*

Section 27. Section 81-428, R.C.M. 1947, is amended to read as follows:

"81-428. **Proof of termination of lease or pledge to be filed.** The lessee of any grazing or agricultural lease of or leasehold interest in state lands which *is* pledged or mortgaged as provided *in sections 81-425 through 81-431* shall, within thirty (30) days after payment of the indebtedness secured thereby, or within thirty (30) days after the pledge agreement *is* terminated or the leasehold in-

terest *is* released from the mortgage, file with the *department* proof of *that* fact."

Section 28. Section 81-433, R.C.M. 1947, is amended to read as follows:

"81-433. **Formula for fixing annual rental.** *(1) In* this section:

(a) "Animal unit" means one (1) cow, one *(1)* horse, five *(5)* sheep or five *(5)* goats.

(b) "Animal-unit-month carrying capacity" means that amount of natural feed necessary for the complete subsistence of one *(1)* animal unit for one (1) month.

(2) The board shall establish the per annum rental rate per section of all grazing lands which are the property of the state upon the animal-unit-month basis as provided *in this section.*

(3) In fixing the minimum annual rental per section, the following formula shall be used:

The base rental shall be computed by multiplying thirty-two cents (32¢) plus two (2) times the average price per pound of beef cattle on the farm in Montana for the previous year times the animal-unit-month carrying capacity of the land.

(a) The minimum annual rental for grazing lands with an annual carrying capacity of more than fourteen (14) and less than twenty (20) animal units per section is the base rental.

(b) The minimum annual rental for grazing lands with an annual carrying capacity of more than nineteen (19) animal units per section is ten cents (10¢) more than the base rental.

(c) The minimum annual rental for grazing lands with an annual carrying capacity of less than fifteen (15) animal units per section is ten cents (10¢) less than the base rental.

(4) The carrying capacity of the land, to be used in the above formula, shall be in accordance with the determinations of the *department* made *under* section 81-404.

(5) The average price per pound of beef cattle on the farm in Montana shall be taken from statistics published by the United States department of agriculture current at the time of computation of the rental, or from other reliable sources current at such time."

Section 29. Section 81-436, R.C.M. 1947, is amended to read as follows:

"81-436. **Deposit required with bid for lease—retention or return—forfeiture.** *A person* bidding for the lease of *state* lands shall deposit with the *department,* as evidence of good faith, a certified check, cashier's check, or money order in an amount equal to the annual rental bid in the case of grazing land, and an amount equal to one dollar ($1) per acre for each acre of agricultural land contained in the lease in the case of agricultural land on which *the* bid is made on a crop share basis. The *department* shall retain the deposit of the successful bidder *and apply it* on the rental for the first year of the lease only, and return any balance of the deposit at the end of the first year to the successful bidder, and return the deposits of the unsuccessful bidders. If the successful bidder fails to execute the lease for any reason, his deposit shall be forfeited and deposited by the *department* to the credit of the proper interest and income account in the federal and private revenue fund."

Section 30. Section 81-501, R.C.M. 1947, is amended to read as follows:

"81-501. **Coal mining leases.** *(1)* The state board of land commissioners *may* lease in such manner as it *considers in* the best interests of the state any state lands to which the title *is vested* in the state and in which the coal or coal rights are not reserved by the United States for exploring for, mining, removing, selling, and disposing of the coal therein, upon the terms and conditions herein stated, and subject to such rules and regulations as the board *prescribes.* This power *extends* to *state* lands no matter *how* acquired, and *extends* to state lands which have been sold but in which the coal rights *are* reserved by the state, whether *the* lands are under certificate of purchase or patents have been issued; in such cases, and in all cases where the lands are under lease for grazing, agriculture, or similar purposes, care shall be taken in issuing the coal mining lease to protect the rights of the purchaser or lessee.

(2) These coal leases *are* subject to the condition that the coal must be mined, handled, and marketed in *a* manner *that will* prevent as far as possible all waste of coal, and *are* also subject to the condition that the mining operations shall be carried on in *a* systematic and orderly manner *that will* not make subsequent mining operations more difficult or expensive. *A violation* of *any of* these conditions *is grounds* for the forfeiture of the lease, after *a* hearing before the board."

Section 31. Section 81-502, R.C.M. 1947, is amended to read as follows:

"81-502. **Maximum term of lease—form.** No coal mining lease *may* be issued for *more* than twenty (20) years, but the board may

establish rules for the renewal of a lease at the expiration of the term it *considers* proper and necessary. The board shall prescribe the form of the lease."

Section 32. Section 81-506, R.C.M. 1947, is amended to read as follows:

"81-506. **Improvements of former lessee.** *When* a coal mining lease is applied for on land where mining operations have been carried on by a former lessee, and there are surface or underground improvements on the land used at *the* former operations, disposition shall be made of *the* improvements satisfactory to the board before a new lease is issued. If the owner of such improvement desires to sell the same to the new lessee, then the new lessee shall pay him the reasonable value thereof as far as they are suitable for the new mining operations. If they fail to agree on the value of such improvements, then such value shall be ascertained and fixed as provided in section *81-421.1.*

Before a new lease is issued, the applicant shall show to the satisfaction of the board that he has paid the owner for the improvements as agreed on between them, or as fixed by the aforesaid officers, or officer, or that he has tendered payment as so fixed, or that the owner desires to remove his improvements."

Section 33. Section 81-508, R.C.M. 1947, is amended to read as follows:

"81-508. **Report and payment of royalty.** On or before the *last* day of each month *every holder of a producing coal mining lease* shall make a report to the *department on a* form *the department prescribes,* showing the number of tons mined during the preceding calendar month, the price obtained therefor at the mine, the total amount of all sales, and *any* additional information required by the *department. The* report shall be verified by the oath of the lessee and be accompanied by payment of the royalty due the state for *the* preceding month as shown by the report."

Section 34. Section 81-510, R.C.M. 1947, is amended to read as follows:

"81-510. **Disposition of royalties and other receipts.** *The department shall credit fees and penalties collected under coal mining leases to the general fund, and rentals, royalties, and bonuses to the permanent fund arising from the grant to which the land under each particular lease belongs."*

Section 35. Section 81-601, R.C.M. 1947, is amended to read as follows:

"81-601. **Definitions.** *In this chapter: (1) "Metalliferous* minerals" *mean* gold, silver, lead, zinc, copper, platinum, iron, and all other metalic minerals.

(2) "Gems" mean sapphires, rubies, and other stones commonly known as "precious stones" or "semiprecious stones," but *do* not *mean stones* or other earth *materials* commonly used in building or construction work.

(3) "Mining" means the carrying on of operations of any kind for the purpose of extracting from the earth ore and other earth material containing metalliferous minerals or gems, and includes operations of any kind for the extraction from ores and other earth material of metalliferous minerals or gems.

(4) "Mining lease" means a lease issued by the state board of land commissioners for the prospecting for or mining of metalliferous minerals or gems. The term *"Mining lessee"* means the holder of a mining lease whether *the* holder is the original lessee under *the* lease, or holds *the* lease as successor of *the* original lessee.

(5) "Returns" mean the net amount received by the shipper from products of mining operations, after deducting transportation costs and smelting charges and deductions, and other treatment costs, not including as a deduction any cost of producing or treating at the mine.

(6) "Full market value" means the highest net value of products of mining operations in United States markets, less cost of transportation and refining, not including as a deduction any cost of producing or treating at the mine."

Section 36. Section 81-602, R.C.M. 1947, is amended to read as follows:

"81-602. **Empowering board to lease, etc.** The board *may,* in its discretion, subject to the other provisions of this *chapter,* lease *state* lands, including the beds of navigable streams and the beds of navigable bodies of water, and the *reserved* mineral rights of the state in lands sold or leased by the state, to *any person, association, or corporation,* for the purpose of prospecting for or mining metalliferous minerals or gems. *These* leases may be for *a period* of time determined by *the* board, subject to limitations contained in the grants by which the state has acquired title to lands or mineral rights so leased."

Section 37. Section 81-603, R.C.M. 1947, is amended to read as follows:

"81-603. **Provisions of leases.** Leases issued under this *chapter* shall give the lessee, so long as he *complies* with the terms and conditions *of the lease,* the exclusive right of possession of the

lands or mineral rights leased, subject to *any* reservations contained in *the* leases. *A lease* may contain reasonable provisions for preliminary prospecting periods, and shall contain reasonable requirements for the prosecution of work during the prospecting period (if any), and for the prosecution of mining after the prospecting period. *It* may provide for the payment of rentals in conjunction with *the* work requirements, or may prescribe cash rentals as an alternative, or otherwise, as the board *considers* best. *It* shall specify the term of the lease, the royalty to be paid, reasonable forfeiture provisions, and reasonable terms under which the lessee may, within a time limited in *the* lease, remove property placed upon the leased lands by him, in the event of the termination of the lease by forfeiture or by lapse of time. *It* may *also* contain other provisions *the* board and the lessee agree upon, not inconsistent with this *chapter. In* short *the* board in making *the* leases *may* exercise business discretion, so long as this *chapter is* not violated. No mining lessee *may,* during any preliminary prospecting period contained in any lease, remove any metalliferous minerals or gems from the leased premises, except as *are* necessary for the proper testing and sampling of *the* lands or mineral rights, and except as *are* permitted by *the* board. The board, by agreement with the permittee or lessee, may, in its discretion and upon such terms as it *considers* best, amend or modify the terms and conditions within the limitations of this *chapter* or extend the term of any lease or prospecting permit issued under this *chapter,* subject to the limitations contained in section 81-802."

Section 38. Section 81-604, R.C.M. 1947, is amended to read as follows:

"81-604. **Royalties—pooling agreements and unit plans of operation.** *(1)* In every *mining* lease the board shall reserve to the state a royalty which shall, together with other considerations to be paid by the mining lessee, constitute the full market value *as ascertained by the board* of the leasehold interest conveyed by *the* lease. *This* royalty *may not be* less than five per cent (5%) of the returns from, or of the full market value of, the metalliferous minerals or gems recovered by the lessee from the state lands or reserved mineral rights covered by *the* lease.

(2) The board may enter into agreements for the pooling of acreage or yardage with others holding the mineral rights in adjoining lands, for unit operation of placer mining and the apportionment of royalties on a cubic yardage or area basis in the case of placer mining deposits lying partly on land in which the state holds the mining rights, and partly on land *in which others hold the mining rights. From* each cleanup of values under such unit operations in which any yardage or area mined on lands to which the state holds the mineral rights is included, the state *is* entitled to

royalties computed on that proportion of the whole value of recoveries from the cleanup as the yardage or area mined from lands included in the agreement in which the state holds the mining rights, bears to the total yardage or area mined and included in the cleanup. *The* board *may also* enter into agreements for *the* unit operation of such placer mining deposits and the apportionment of royalties upon *any* other equitable basis *the board considers* in the best interest of the state. *The* agreements *may* not change the percentage of royalties to be paid to the state under the unit operations from the percentage fixed in the lease, or to a *smaller* percentage than the *five per cent (5%)* minimum *under this section."*

Section 39. Section 81-605, R.C.M. 1947, is amended to read as follows:

"81-605. **Quantity of lands.** *A mining* lease shall cover *the* quantity of ground the board *determines* to be reasonable and consistent with the character of the ground, the type of deposit or deposits for which *the* lands *are* to be mined, and the character and size of the operation contemplated, necessary, or reasonable in good mining practice, for the profitable recovery of *the* metalliferous minerals or gems therefrom."

Section 40. Section 81-606, R.C.M. 1947, is amended to read as follows:

"81-606. *Applications. Application for a mining lease shall be made to the department on a form prescribed by it."*

Section 41. Section 81-607, R.C.M. 1947, is amended to read as follows:

"81-607. **Bonds to state.** The board may, at the time of the execution and delivery of *a* mining lease, or at any time during the life *of the lease,* require *a* mining lessee to file with *the department,* for the benefit of the state, a bond or bonds conditioned to protect the rights of the state, particularly in the payment to the proper officer of *the* state of the royalties reserved in *the* mining lease. *The* bond or bonds *shall* be in *a* form *and amount* prescribed by *the* board. *The* board may at any time require new or additional bonds if, in its discretion, the interests of the state are not adequately protected by the bond or bonds *previously* filed."

Section 42. Section 81-608, R.C.M. 1947, is amended to read as follows:

"81-608. **Bonds to protect lessees, contractees, etc.** *If the* lands at the time of the issuance of a mining lease have been sold, or *are* under contract of sale, or have been leased for agricultural, grazing, or other purposes, the board shall provide against the infringement

of the rights of *the* prior purchaser, contractee or lessee, and among other things may at any time require the mining lessee to file with *the department* a corporate surety bond in *a* reasonable amount fixed by the board, conditioned to protect the rights of *the* prior purchaser, contractee, or lessee. *The* form of *the* bond *shall* be prescribed by *the* board, *and the* bond shall run to the state for the benefit of *the* prior purchaser, contractee, or lessee. New or additional bonds may be required by the board at any time. Suit may be brought upon *the* bond by any such prior purchaser, contractee, or lessee, for alleged violation of the terms *of the bond* by *the* mining lessee, and such suit shall be brought by *the* claimant in the name of the state for the use and benefit of *the* claimant, and any recovery upon *the* bond shall be paid to the claimant."

Section 43. Section 81-611, R.C.M. 1947, is amended to read as follows:

"81-611. **Examination of lands.** Before *the board leases* any lands for the mining of metalliferous metals or gems, the *department* shall investigate the character of *the* lands and the nature and possible extent of the mineral deposits therein, for the purpose of determining whether *those* lands are of such a character as to warrant the issuance of a mining lease thereon, and for the purpose of determining the amount of royalty and other rentals or considerations for which *the* lands should be leased for mining purposes under this *chapter*. Upon the filing of an application for a mining lease the board may, if the lands covered by *the* application *have not been* examined by the *department*, require the applicant for *the* lease to deposit with the *department* an amount of money, not exceeding five hundred dollars *($500)* in any one case, which, in its judgment, will cover the cost of a special examination, to enable the board to pass upon *the* application in accordance with this *chapter*. Such deposit shall be used to reimburse the state for the actual cost of *the* examination, and any portion of *the* deposit not required for such reimbursement shall, upon the approval or rejection of *the* application, be repaid to the applicant *by the department*. The *department* shall make and preserve complete records of all such examinations."

Section 44. Section 81-612, R.C.M. 1947, is amended to read as follows:

"81-612. **Failure of title.** In issuing mining leases, the board and the state have leased only such right, title, and interest as the state *has* in the lands, metalliferous minerals or gems therein contained. *Neither* the state, *the* board, nor any representative, agent, or employee of the state or *the* board, *are* under any liability *for* the failure of the title of the state, in whole or in part, to the lands, metalliferous minerals, or gems covered by *the* lease."

Section 45. Section 81-613, R.C.M. 1947, is amended to read as follows:

"81-613. **Assignment of leases or permits.** In case of the assignment of a mining lease or a prospecting permit by the holder thereof, the mining lessee or permitee executing *the* assignment *is* not relieved of any responsibility for operations under *the* lease or prospecting permit until the financial and moral responsibility of the assignee *has* been approved by the board, nor until there *is* deposited with the *department:*

(a) *The* assignment or an executed copy thereof;

(b) An instrument executed by the sureties upon any bonds then held by *the* board in connection with *the* mining lease or permit and then in force, consenting to *the* assignment and containing the agreement of *the* sureties to be bound by *the* bonds under *the* assignment, or new bonds conforming to all the requirements of section 81-607; and

(c) *A* fee *prescribed under section 81-108.*"

Section 46. Section 81-614, R.C.M. 1947, is renumbered section 81-2305, and is amended to read as follows:

"81-2305. **Determining title to stream beds, etc.** The board *may* take all proper proceedings for the purpose of determining the title to the beds of lakes and other bodies of water and of streams within the state, and to that end *may* bring or defend suits or other proceedings in court, or before other proper tribunals."

Section 47. Section 81-615, R.C.M. 1947, is renumbered section 81-601.1, and is amended to read as follows:

"81-601.1 **Prospecting permits.** Prospecting permits without lease may be issued by the board upon the payment of *the issuance* fee *under section 81-108. The permittee shall also pay an annual* fee established by the *department and approved by* the board at the end of each year during the life *of the permit. A* permit shall provide for due diligence in the work of prospecting during the life of *the* permit. *A* permit shall be limited to prospecting for metalliferous minerals or gems and no permittee *may* remove from any lands or mineral rights covered by *the* permit any metalliferous minerals or gems except such as *are* necessary for the proper testing and sampling of *the* lands or mineral rights, and except as *are* permitted by *the* board. During the life of any permit the permittee may apply for a lease of the lands or mineral rights covered by *the* permit, and if a lease is granted *it* shall be in the form and subject to all the terms and conditions specified in this *chapter*, as in the case of a mining lease issued under this *chapter. The* permittee *has*

the preference right to a lease, upon such terms as the board *considers* just, subject to this *chapter*, and in any event *the* permittee *has* preference without competitive bidding, and upon the most favorable terms permitted under this *chapter*, to forty (40) contiguous acres. If some other person *makes* a better bid for a mining lease upon the land covered by *the* permit, and if the board *awards* a mining lease to *a* better bidder, the board shall also require such mining lessee to pay to the permittee, prior to the issuance of *the* lease, the full value of all the work the permittee *has* performed upon the land under his permit in connection with his prospecting and exploration work, and the permittee *may* remove from *the* land, within thirty (30) days from the date the board *gives the* permittee notice of the issuance of *the* mining lease, or within such further time as the board, upon good cause shown, *allows*, any machinery, equipment, improvements, and other property placed thereon by him."

Section 48. Section 81-616, R.C.M. 1947, is amended to read as follows:

"81-616. **Notice to lessees.** Upon the *approval* of an application for a prospecting permit or a mining lease under this *chapter*, the *department* shall promptly give written notice, by ordinary mail, to the *lessee or permittee*, and to *any* holder of an agricultural or grazing lease embracing the same land, or to *any* holder of a certificate of purchase or patent embracing the same land. The notice shall be addressed to *the* permittee, mining lessee, agricultural or grazing lessee, purchaser or patentee at his last known post-office address."

Section 49. Section 81-701, R.C.M. 1947, is amended to read as follows:

"81-701. **The board may issue leases.** *When* there are found upon state lands deposits of stone, limestone, oil shale, clay, bentonite, calsite, talc, mica, ceramic, asbestos, marble, diatomite, gravel or sand, or phosphate, sodium, potash, sulphur, fluorite or barite, or any other nonmetallic minerals, but not including coal, oil, or gas, valuable for building, mining, or other commercial purposes, the state board of land commissioners may, in its discretion, issue to private persons permits or leases for the removal and disposition of *the above named deposits*, upon such terms and conditions as the board may determine. *All* such leases shall be upon a royalty basis calculated upon a gross value by weight or cubic measurement as is most favorable for the particular substance being mined or extracted from the lands. *The* gross value *shall* be determined at the mine or site of operation, and the rates shall be the same that ordinarily would be charged by private owners under similar circumstances, or as in the determination of the board *is* fair and

reasonable. *The* fee for issuing the lease *is* the same as for an oil and gas lease. No such lease shall be made for *a* longer term than ten (10) years, and the board may demand a cash deposit to guarantee the payment of the royalties, or demand a surety bond, or both *a* cash deposit and bond, as the board may determine."

Section 50. Section 81-702, R.C.M. 1947, is amended to read as follows:

"81-702. **Report of lessee and payment and distribution of royalties and other receipts.** On or before the *last* day of each month, *every* holder of a *producing* lease under this *chapter*, shall make a report to the *department of state lands on a* form *the department prescribes*, showing the amount of substances mined or extracted from the lands in the preceding month, the price obtained, the total amount of sales and *any* additional information required. *The report* shall be verified by affidavit of the lessee, or some responsible person having knowledge of the facts, and shall be accompanied by payment of the amount to the state as royalty for the month covered by the report. The royalties, fees, and penalties received under *these* leases shall be credited to the various funds to which they properly belong in the same manner as is now provided for crediting the same under oil and gas leases."

Section 51. Section 81-704, R.C.M. 1947, is amended to read as follows:

"81-704. **Stone, gravel and sand permits for public use.** The board *may* in its discretion, issue permits upon such terms and conditions it *determines*, to the *department of highways*, the board of county commissioners of *any county* of the state, *or* to the governing *body* of *a city* or *town* and of *any* other political *subdivision* of the state, granting them the right to take, remove, and use stone, gravel, or sand from any state lands that have not been sold under certificate of purchase or otherwise for the construction, maintenance, and improvement of public roads, highways, bridges, streets, or alleys. The rights of lessees to the lands on which such stone, gravel, or sand may be located shall be properly safeguarded under the terms of the permits."

Section 52. Section 81-801, R.C.M. 1947, is amended to read as follows:

"81-801. **Sale of state lands to United States—easements for public purposes granted—mineral reservations—land for projects administered by** *the department of natural resources and conservation.* (1) Any *state lands* needed by the United States in the construction of projects for the control of floods, river regulation, conservation of water, irrigation, and reclamation works, or transmission or

distribution of electric energy, shall, upon application to the board of land commissioners, be sold and conveyed to the United States at the price per acre fixed by the board of appraisers appointed by the United States to appraise and value lands to be included within such projects and needed by the United States in the construction thereof, subject, however, to the approval of the state board of land commissioners and the price limitations of the Enabling Act and the state constitution.

(2) There is granted to the United States over all *state* lands an easement of sufficient width for the purpose desired for right of way for ditches, canals, tunnels, telephone, telegraph, and electric power lines now constructed or to be constructed by the United States in furtherance of the reclamation of arid lands, flood control, river regulation, conservation of water, and transmission and distribution of electric energy.

(3) All conveyances of state lands shall contain a reservation of such rights of way easements. *If the* lands herein granted as rights of way cease to be used for *that* purpose, *they* shall revert to the state, upon notice to that effect being given to the proper authorities.

(4) The mineral reservations now applying to sale of lands received through grants from the United States apply to all lands sold to the United States under this *section,* but all prospecting and exploration for minerals therein, the mining and removal thereof, and all operations carried on in connection therewith, must be carried on in such manner and under such regulations that they will not interfere with the use of the lands for the purposes for which they have been purchased by the United States.

(5) Lands needed by the United States for any of the *previously specified* purposes may be appraised or reappraised without appraising the remaining state lands in the county in which they are located. The lands shall be appraised at their full market value.

(6) The provisions of this *section* governing the sale of state lands to the United States also apply to the sale of state lands for projects financed by the United States under the administration of the *department of natural resources and conservation,* except as to appraisal by the United States."

Section 53. Section 81-802, R.C.M. 1947, is amended to read as follows:

"81-802. **Easements for school sites and grounds and other public uses.** The board *may* grant easements in state lands for schoolhouse sites and grounds, for public parks, community buildings, cemeteries, and other public uses upon proper applications accompanied by accurate and duly verified plats from the lawfully constituted authorities having charge of *those* properties."

Section 54. Section 81-803, R.C.M. 1947, is amended to read as follows:

"81-803. **Easements on state land—application for—action on.** (1) Application for *an* easement on state land must be made to the *department of state lands. It* shall describe the proposed right of way according to survey, show the necessity for the proposed highway or street or other easement, and give *any* additional information the *department requires.* This application shall be accompanied by two *(2)* exact copies of the official plat of the proposed highway, street, or other easement duly verified by the affidavit of the county surveyor or county or city engineer, or other engineer having prepared the same, endorsed thereon. These plats shall show the quantity of land taken by the proposed highway or street or other easement for each *forty (40) acre* tract or government lot of state land over or through which it passes and also the amount of land remaining in each portion of *that forty (40) acre* tract or government lot. When deemed necessary by the *department, these* plats shall show all these facts for such smaller subdivisions as the circumstances may render desirable for the state. *However,* when the purpose of the right of way applied for is the transmission or distribution of electric energy, or the construction and operation of pipelines or telephone, telegraph or radio systems, the plats and measurements need not be given, except the description of the location of the center line of the right of way, and the entire right of way may be applied for in one application with only one plat of the entire right of way required. *Easements* granted under this *section include* permission to install and maintain poles, anchors, and other appurtenances necessary for the mechanical support of the transmission or distribution lines.

(2) Upon the filing of *an* application and plats, the *department* shall, whenever *it considers* it necessary, *examine* the proposed right of way *and* report *its* findings to the board. The board shall consider the application and report and take *any* action it *considers* proper, including the fixing of compensation and damages to be paid to the state. The compensation shall be the full market value of the estate or interest disposed of through the granting of *the* right of way easement, and the damages shall be the actual damages resulting to the remaining land as nearly as *they* can be ascertained. If the right of way is granted according to the plat, *the* plat shall become the official plat thereof, and shall be retained in the office of the *department.* The board shall *issue* right of way

deeds for all such easements that it *grants,* upon full payment being made.

(3) If the state land over or through which *a* right of way is applied for is under certificate of purchase or sales contract, the purchaser, or his assignee, must be made a party to the proceedings, and his consent in writing to the laying out and establishment of the proposed highway, street, or other easement, and to the amount of compensation and damages to be paid, must be filed with the board before *the* right of way *is* granted. The board *is* the judge of how much compensation and damages shall be paid to the state and applied on the certificate of purchase or sales contract and of how much, if any, shall be paid to the purchaser, as the circumstances in each individual case warrant. *This subsection applies* to all grants of rights of way on state lands."

Section 55. Section 81-901, R.C.M. 1947, is amended to read as follows:

"81-901. **Certain state lands not subject to sale.** Lands classified as timberlands *are* not subject to sale, but timber thereon may be sold and disposed of in the manner provided by law. Lands which in the judgment of the board *of land commissioners* are likely to contain valuable deposits of coal, oil, oil shale, phosphate, metals, sodium, or other valuable mineral deposits, *are* not subject to sale, either the surface land or any of such deposits therein. *However,* this *does* not prohibit the sale of lands containing sand, gravel, building stone, brick clay, or similar materials."

Section 56. Section 81-902, R.C.M. 1947, is amended to read as follows:

"81-902. **Mineral reservations in state lands.** All coal, oil, oil shale, gas, phosphate, sodium, and other mineral deposits, except sand, gravel, building stone, and brick clay, in *state* lands, which *were* not reserved by the United States *before July 1, 1927,* are reserved to the state. All *those* deposits are reserved from sale except upon a rental and royality basis as provided by law. *A* purchaser of *state* lands *acquires* no right, title, or interest in or to any of *those* deposits. The state also reserves for itself and its lessees the right to enter upon *these lands* to prospect for, develop, mine, and remove *those* deposits and to occupy and use so much of the surface of the lands as may be required for all purposes reasonably extending to the exploring for, mining, and removal of *the* deposits therefrom, but the lessee shall make just payment to the purchaser for all damage done by reason of such entry upon the land and the use and occupancy of the surface thereof."

Section 57. Section 81-910, R.C.M. 1947, is amended to read as follows:

"81-910. **Notice of sale.** *(1)* The *department* shall *give* notice of *each* sale by publication in a *newspaper of general circulation in* the county where the sale is to be held, once each week through *the* four *(4)* consecutive weeks preceding the date of sale. *The* notice shall give the day, date, and time of the beginning of the sale, *and* contain a list of all the tracts to be offered for sale showing the township and range in which they are located, describing *them* with reference to section number and subdivision of the section, or with reference to block and lot if surveyed, the number of acres in unplatted lands, and the appraised value per acre and the appraised value of each lot. As a general rule nonirrigable farming lands shall be listed in quarter sections; grazing lands may be listed in larger tracts not exceeding one (1) section.

(2) For the convenience of the bidders, the *department* may assign *to* the tracts advertised a consecutive series of sales numbers and show the sales number of each tract in the notice of sale.

(3) The notice shall also give the terms and conditions of sale, and *any* additional information the *department considers* useful."

Section 58. Section 81-912, R.C.M. 1947, is amended to read as follows:

"81-912. **Regulations concerning sale—forfeiture for nonpayment—disposition of proceeds.** *(1)* At the time fixed for the sale, the lands shall be offered for sale at auction in the order they appear in the notice of sale, *and* under the direction of the *department the lands shall be* sold to the highest qualified bidder under the following restrictions:

(a) No lands *may* be sold for less than the appraised value;

(b) Tillable lands capable of producing agricultural crops *may* not be sold for less than ten dollars *($10)* per acre;

(c) Lands principally valuable for grazing purposes *may* not be sold for less than five dollars *($5)* per acre.

(2) The lessee of the land need not make a higher bid than others, but *he* shall, if bidding an equal amount, be given the preference. The lands shall be sold as nearly as practicable according to the subdivisions in which they are advertised, and care shall be taken not to subdivide any tract in such a way as to separate remaining portions from a water supply or from section lines or public highways. The sale may be adjourned from day to day until all the lands advertised have been offered for sale.

(3) If any successful bidder at *a* sale refuses or neglects to make the initial payment required to be made on the land purchased

by him, he shall forfeit to the state not less than fifty dollars *($50)* nor more than one thousand dollars *($1,000)* to be determined by the board according to the circumstances of the case. If such forfeiture is not paid when notice of the amount of the forfeiture has been served by the *department,* the attorney general shall *sue* for the recovery thereof in the name of the state.

(4) The proceeds from the lands sold, including all subsequent payments on the principal, shall be credited to the permanent fund arising from the grant to which it belongs and shall become and forever remain an inseparable and inviolable part thereof. All payments on interest shall be credited to the proper income fund and shall be available for use as provided by law."

Section 59. Section 81-915, R.C.M. 1947, is amended to read as follows:

"81-915. **Terms of payment.** *(1)* Every purchaser of state land shall pay on the day of sale *that* portion of the purchase price as he may desire, but in no case less than ten *per cent* (10%) of the total sales price, and in case the balance on the purchase price is not an exact multiple of twenty-five dollars ($25), then he shall pay such additional sum as is necessary to reduce the balance to an even multiple of twenty-five dollars ($25).

(2) The balance of the purchase price shall draw interest at the rate of five *per cent* (5%) per annum, payable annually, and the balance of the purchase price itself shall be payable through a period of thirty-three (33) years on the amortization plan. *This plan* is defined as being that plan under which part of the prinicpal is required to be paid each time interest becomes due and payable, and under which this part payment on the pricipal increases at each succeeding installment in the same amount that the interest payment decreases so that the combined amount due on principal and interest on each due date remains the same until the loan or bond is paid in full. *However,* the amount of the last installment may vary from the other installments to the extent resulting from disregarding fractional cents in the previous installments. *The* balance of the purchase price on town and city lots shall be payable on the amortization plan through a period of twenty (20) years, *but* the board may at any time fix a shorter period than twenty (20) years for the payment of *the* balance on town and city lots, and different periods of time may be established for different towns and cities as the best *interests* of the state demand."

Section 60. Section 81-917, R.C.M. 1947, is amended to read as follows:

"81-917. **Lien on improvements and crops for principal, interest, penalty interest and taxes.** The state *has* a lien prior and

superior to all other liens, *except* threshermen's liens and seed liens as specified in sections 45-701 and 45-801, which have priority, *but only for the aggregate amount of the indebtedness then existing, including any advances therefore made, interest due and other charges as evidenced by the original loan-contract, and indebtedness thereafter accumulating on such basis, exclusive of any other future advances originally contemplated. This lien is* upon all buildings, structures, fences, and all other improvements upon the lands so sold and upon all crops growing upon any of these lands, and also upon such crops after they have been separated from the lands, for all due and delinquent installments of principal and interest and penalty interest and taxes under the certificate of purchase and also for all installments becoming due during the calendar year in which the crop is harvested, and *this* lien is hereby expressly reserved. Any person purchasing or otherwise acquiring *the* improvements or crops or any part thereof, takes *them* subject to *the* lien. Any representative of the department or sheriff of the county in which the land is located, or his deputy, may demand of the purchaser or his agent payment of the amounts due the state, and if *they* are not paid upon demand, the officer making *the* demand, or any representative of the department, may *immediately* seize *the* improvements and crops, and upon giving three *(3)* days' notice, sell and dispose of, either at private or public sale, sufficient of the crops or improvements or of both to pay the amounts due the state, together with cost and expenses of seizure and sale."

Section 61. Section 81-919, R.C.M. 1947, is amended to read as follows:

"81-919. **Settlement for improvements.** *If* any state land *is* sold on which there are improvements belonging to a lessee, and some *person other* than *the* lessee *is the purchaser, that person* shall *settle* with *the* lessee for all improvements on the land belonging to the lessee before the *issuance* of the certificate of purchase. *The* provisions of *sections 81-421 and 81-421.1* relating to the payment and settlement for improvements on state lands between a former lessee and a new lessee apply to the settlement between a lessee and the purchaser. If settlement is not reached within six (6) months of date of sale, all improvements become *the* property of the state unless the *department* for good cause shown grants both parties additional time in which to exhaust arbitration."

Section 62. Section 81-921, R.C.M. 1947, is amended to read as follows:

"81-921. **Certificate of purchase.** *(1)* Upon the approval of the sale and receipt of satisfactory evidence of settlement with the former lessee, if any, for improvements on the land, the *department* shall execute and mail to the purchaser a certificate of

purchase signed by the governor as president of the board and by the commissioner *of state lands* and attested by the seal of the board. *The* certificate of purchase shall contain the date of sale, the name and post-office address of the purchaser, a description of the land, the total purchase price, the amount paid on the day of sale, the balance unpaid, and the amount and due date of each installment of principal and interest to the time of maturity. The certificate shall reserve the easements for rights of way granted by the statutes in favor of the United States and other easements that may have been granted by the board and shall contain the reservations in favor of the state provided for in *section 81-902* relating to coal, oil, and mineral rights in the land.

(2) The certificate shall also contain information in regard to the lien of the state on crops and improvements on the land for installments of principal and interest and taxes, and *any* additional conditions, agreements, and information the board *considers* necessary in order to carry out the intent of this act."

Section 63. Section 81-923, R.C.M. 1947, is amended to read as follows:

"81-923. **Payments of installments.** The *department is* not required to accept fractional payments of the installments on certificate of purchase, on account of the complications arising from the division of payments. The purchaser may make payment of one *(1)* or more installments before the same *becomes* due, but unless such payments are made at least six (6) months before the installments become due, no reduction *may* be made in the interest payments. *If* installments on principal and interest are paid more than six (6) months prior to the due date, the interest from the date of such payment shall be figured upon the balance of the principal unpaid after *the* advance payment has been made up to the date on which it comes due. If for any reason any installment is not paid when due, the total of *that* installment, including payment on the principal and payment on interest, shall draw penalty interest at the rate of six *per cent* (6%) per annum from the date due until the date actually paid. Payment may be made in full at any time before maturity by paying the balance on the principal and interest accrued up to the date of such payment."

Section 64. Section 81-924, R.C.M. 1947, is amended to read as follows:

"81-924. **Default in payment of purchase price — cancellation of certificate.** *If* any purchaser *or assignee* of state land *defaults* for a period of thirty (30) days or more in the payment of any of the installments due on his certificate of purchase, the certificate *is* subject to cancellation. *The department* shall *mail* to him at his last

known post-office address a notice of default and pending cancellation. *The* notice shall give him sixty (60) additional days from the date of mailing *the* notice in which to make payment of the delinquent installment or installments with penalty interest. If he fails to make *the* payment within *sixty (60) days,* the certificate of purchase shall from that date and without further notice be void, the duplicate of the certificate in the office of the *department* shall be canceled, and the land under the certificate shall revert to and become the property of the state to the same extent as other state lands, and shall be open to lease and sale. *All* buildings, fences, and other improvements placed thereon subsequent to the date of execution of *the* certificate of purchase shall be and remain the property of the purchaser named in *the* certificate of purchase or of his heirs, assigns, or devisees, and may be removed from *the* land at any time within ninety (90) days after the date of *the* cancellation. If *the* buildings, fences, and other improvements *are* not removed prior to the expiration of *the* ninety (90) day period, they become the property of the state. In case of cancellation of certificate of purchase or surrender of certificate of purchase, and where the land is again open to lease, the former lessee *has* the prior right to lease the tract at the existing rate, or at the rate set by competitive bidding if such occurs."

Section 65. Section 81-926, R.C.M. 1947, is amended to read as follows:

"81-926. **Certificates may be assigned.** Certificates of purchase may be assigned to a citizen of the United States, or to a person who has declared his intention to become *a* citizen, or to a corporation organized under the laws of *this* state. Such assignments shall be made on forms prescribed by the *department,* shall be duly acknowledged as other conveyances of real estate, and shall be executed in duplicate, one (1) copy to be filed and retained in the office of the *department,* and one (1) copy to be retained by the assignee. A person *is* not qualified to receive *an* assignment if the lands he has already purchased from the state together with the lands included in the assignment exceed one (1) section; the assignee must in all respects possess the same qualifications as an original purchaser."

Section 66. Section 81-927, R.C.M. 1947, is amended to read as follows:

"81-927. **Lost certificate.** *If a* certificate of purchase to state lands *is* lost or is wrongfully withheld by any person from the owner thereof, the rightful owner may *apply* to the board for *the issuance* of a *substitute* certificate. This application shall be accompanied by an affidavit from the owner of the certificate setting forth the facts in regard to the loss or unlawful withholding of the certificate, and

by a certificate from the county clerk and recorder of the county in which the land is located showing all instruments of record in his office affecting the title to the land under the certificate. The board shall *issue* a *substitute* certificate of purchase to the applicant if in the judgment of the board the facts warrant *its* issue."

Section 67. Section 81-928, R.C.M. 1947, is amended to read as follows:

"81-928. **Land subject to taxation.** *(1)* State lands purchased from the state *are* subject to taxation to the full value thereof. The assessor shall assess the purchaser for the full value of the land on the first Monday of March following the date of purchase. *The* holder of certificates of purchase to lands within irrigation districts *is* liable for the entire tax levied against the land thereunder on account of such irrigation district.

(2) The improvements on the land shall be assessed and taxed as other improvements on farm lands.

(3) On or before March *15* of each year, the *department* shall furnish the county assessor of each county with a complete list of all state lands sold in his county during the year ending on the first Monday of March of each year. This list shall show the name and address of the purchaser, the legal description of the land, and the acreage contained therein."

Section 68. Section 81-930, R.C.M. 1947, is amended to read as follows:

"81-930. **Lands reverting to state — procedure.** *If* any lands sold under this *title* revert to the state for any *reason*, the *department* shall notify the assessor and the county treasurer of the county in which the land is situated *of that fact. Upon* the receipt of *the* notice, the assessor *shall* cancel any assessment of *the* land for that year, and the county treasurer *shall* cancel all *tax liens* against the land."

Section 69. Section 81-932, R.C.M. 1947, is amended to read as follows:

"81-932. **Patents, how executed.** *(1)* The governor, and in his absence or inability, the lieutenant governor, shall execute *deeds* or *patents* of conveyance transferring without covenants any lands sold by the board under the laws of this state when full payment has been made therefor. Such deed or patent shall contain the reservation of easements for rights of way to the United States, reservation of all minerals in the land as provided in *section 81-902*, and all other reservations to which the particular land conveyed *is* subject. *If* the land is located within the boundaries of a federal

irrigation project, the patent shall contain a lien clause substantially in the following form: "The land hereby conveyed is located within the boundaries of a federal irrigation project and is subject to all liens which the United States may have thereon by reason of its being located under such irrigation project." *The* deed or patent shall be attested by the secretary of state, countersigned by the commissioner *of state lands,* and have the great seal of the state and the seal of the board thereto attached, but need not be acknowledged. A certified copy of the record of any such deed or patent shall be received in evidence in all courts of record of this state the same as the original

(2) This section *does* not require any reservation in a patent which was not an express or implied reservation in the certificate of purchase pursuant to which the patent is issued; the statutes in effect when such certificate of purchase was issued must govern."

Section 70. Section 81-1101, R.C.M. 1947, is amended to read as follows:

"81-1101. **Acceptance of federal land grants.** *The* state board of land commissioners *may* accept any grant of lands from the United States to the state made in carrying out the provisions of the Enabling Act and also any other grant for any special purpose that may be made by the United States to the state. Any acceptance by the board on behalf of the state, that has taken place prior to *July 1, 1927,* of lands granted by the United States to the state is hereby ratified."

Section 71. Section 81-1101.1, R.C.M. 1947, is amended to read as follows:

"81-1101.1. **Board may accept federal facilities and installations — title in state.** The board *may* on behalf of the state accept donations of federal installations, facilities, lands, or properties. All title to the installations or facilities shall be vested in the name of the state for its use. *This section does* not limit, reduce, or supersede sections 82-3101 through 82-3104."

Section 72. Section 81-1103, R.C.M. 1947, is amended to read as follows:

"81-1103. **Donations of land for forestry purposes.** *The* board *may* accept gifts, donations, or contributions of land suitable for forestry or park purposes, and enter into agreements with the federal government or other agencies for acquiring by lease, purchase, or otherwise such lands as in the judgment of the board are desirable for state forests."

Section 73. Section 81-1108, R.C.M. 1947, is renumbered section 81-106, and is amended to read as follows:

"*81-106.* **Board to correct errors.** The board *shall correct* errors, mistakes, and misdescriptions in deeds and conveyances of property to the state. *Deeds* or other conveyances shall be made and executed in the manner provided for the execution of patents by the state. The board *may also correct* errors in leases, certificates of purchase, patents, and other conveyances of property from the state, upon satisfactory proof that an error or mistake has been made."

Section 74. Section 81-1109, R.C.M. 1947, is renumbered section 81-107, and is amended to read as follows:

"*81-107.* **Money paid by mistake to be refunded.** If any money *is* erroneously paid to the state on any permit, lease, certificate of purchase, patent, loan, or in any other transaction, *the department shall refund that money* to the person entitled *to it* from the proper fund."

Section 75. Section 81-1110, R.C.M. 1947, is amended to read as follows:

"81-1110. **Who may not buy or lease state lands.** It *is* unlawful for any member of the board, or any person appraising lands, or in the employ of the state for the selection, classification, appraisal, sale, or leasing of any state lands or the timber thereon, or of any person connected with the *department of state lands* as an officer or employee, to purchase or lease, directly or indirectly, any of the land of the state or any timber thereon."

Section 76. Section 81-1113, R.C.M. 1947, is renumbered section 81-108, and is amended to read as follows:

"*81-108. Fees. The department may prescribe fees, with the approval of the board, for the issuance, filing, or making of a copy of any instrument or for any other service.*"

Section 77. Section 81-1115, R.C.M. 1947, is amended to read as follows:

"81-1115. **State land equalization payments to counties—list of lands transmitted to county assessor.** The *department* shall, before the first Monday of April of every year, prepare and transmit a statement to the county assessor of each county *in which* the state has real property in excess of six per cent (6%) of the total land area of the county and from which the state derives grazing, agricultural or forest income. The statement shall contain the total number of acres owned by the state in that county and list the acres separately as grazing, agricultural, or forest land."

Section 78. Section 81-1117, R.C.M. 1947, is amended to read as follows:

"81-1117. **Form to be completed by county assessor—method of computation shown.** The *department* shall provide a form to be followed and completed by the county assessor. The county assessor shall, before *October 1,* make the computations required and submit to the *department* the completed form which shall show the computations and method used in arriving at the state land equalization payment."

Section 79. Section 81-1118, R.C.M. 1947, is amended to read as follows:

"81-1118. **County statement on equalization payments examined by *department*—claim filed with *department of administration.*** The *department* shall examine the statement returned by the county assessor for accuracy, and in no case shall the state land equalization payment be approved unless the state exemption figure is deducted from the gross assessment figure in the statement. The *department* shall, before November 1 of each year, prepare and file a claim with the *department of administration* for all counties who are eligible for state land equalization payments, and this claim shall show the amount of money each eligible county will receive."

Section 80. Section 81-1119, R.C.M. 1947, is amended to read as follows:

"81-1119. **Warrant for state land equalization payments to counties.** The *department of administration* shall, before *December 1,* approve and authorize the issuance of a warrant on the general fund of the state made payable to the county treasurer of the counties shown on the claim for the payment of the state land equalization payment."

Section 81. Section 81-1121, R.C.M. 1947, is amended to read as follows:

"81-1121. **School district use of state land equalization proceeds.** The money received by any school district under *sections 81-1115 through 81-1120* shall be designated as district money for the general maintenance and operation of the elementary schools of the district. Such money may be used by the district as all other cash balances are used, in accordance with the provisions of section 75-6915."

Section 82. Section 81-1601, R.C.M. 1947, is amended to read as follows:

"81-1601. **Sale of timber—fees for brush disposal and timber**

stand improvement. *(1)* The state board of land commissioners *may* sell timber on state lands, at such price per thousand feet as in its judgment *is in* the best interest of the state, but not otherwise; but no such sale of live timber shall be less than three dollars *($3)* per thousand feet for white pine, yellow pine, and spruce *or* less than one dollar and a half ($1.50) per thousand feet for all other timber species. All timber sold or cut from state lands shall be cut and removed under such rules and regulations for the preservation of standing timber and the prevention of fires as the board *prescribes;* in all cases the board must require the person cutting the timber to pile and burn or otherwise dispose of the brush and slashings in such manner as may be required. Before any sale *is* granted, the timber shall be estimated and appraised under the direction of the *department of natural resources and conservation,* upon the request and subject to the approval of the board. *These* estimates and appraisals shall show as nearly as *possible* the amount and values per thousand feet of all merchantable timber, together with a statement of the situation of the timber relative to risk from fires or damage of any kind, its distance from the nearest lake, stream or railroad, and its value and position as a protection to a watershed.

(2) The board may set fees for brush disposal on state lands. The board may also establish a fee for timber stand improvement on timber cut on state lands. Such fees shall be deposited in the earmarked revenue fund to the credit of the *department of natural resources and conservation."*

Section 83. Section 81-1604, R.C.M. 1947, is amended to read as follows:

"81-1604. **State brand—penalty for violation.** The *department of natural resources and conservation,* under the direction of the board, shall select and designate a brand which *it* shall place upon all timber, logs, boards, or planks that may be seized, as provided for in this *chapter.* Any person, or any officer or employee of any company, association, or corporation, who *removes, sells, or disposes* of any property mentioned in this *chapter,* after the *property* has been seized or marked with the state brand, or who *erases, defaces, cuts, or destroys* any mark upon any such property, shall, upon conviction, be imprisoned in the state prison for not less than one *(1)* year nor more than three *(3)* years, and be subject to a fine of not less than five hundred dollars *($500)* nor more than five thousand dollars *($5,000)."*

Section 84. Section 81-1702, R.C.M. 1947, is amended to read as follows:

"81-1702. **Area to be leased — limitations — term of leases —**

operating agreements. (1) *An* oil or gas lease issued on state lands *may not* embrace more than six hundred forty (640) acres, except that any section surveyed by the United States *which* contains more than six hundred forty (640) acres may be included under one *(1)* lease. Any person, association, corporation, or municipality qualified to hold an oil or gas lease on state lands may receive from the board or take through assignment, or succession, will, judgment, decree, or otherwise through the operation of law, more than one *(1)* oil and gas lease to state lands, subject to such regulations and limitations as the board *prescribes.*

(2) All *state oil and gas* leases shall be granted for a primary term or period of ten (10) years, and as long thereafter as oil or gas in paying quantities *is* produced, *on condition* that all drilling, rental, and other obligations are fully kept and performed by the lessee; nothing *in this section amends* or *repeals* sections 81-1703 or 81-1706.

If oil or gas is not being produced from the leased premises at the expiration of the primary term of the lease, but the owner of the lease is then engaged in drilling on *the* premises for oil or gas, then the lease *continues* in force so long as such drilling operations are being diligently prosecuted. If oil or gas *is* recovered from any such well drilled or being drilled at or after the expiration of the primary term of the lease, the lease *continues* in force so long as oil or gas in paying quantities *is* produced from the leased premises.

(3) Owners of state oil and gas leases may enter into agreements with other persons, associations, firms, and corporations for drilling and other operations on the state lands under their leases; but no such operating agreements *are* in any way binding upon the state until filed with the board and approved by *it;* and no such drilling or operating agreement in any way *affects* the obligations of each individual leaseholder to the state.

(4) Nothing contained *in this section* or in prior related acts *prevents* the board from entering into agreements for the pooling of acreage with others for unit operations for the production of oil or gas, or both, and the apportionment of oil or gas royalties, or both, on an acreage or other equitable basis, and from modifying leases with respect to delay rentals, delay drilling penalties and royalties in accordance with such pooling agreements and such unit plans of operation; however, such agreements *may* not change the percentage of royalties to be paid to the state from the precentages as fixed in its leases. The board *may* modify existing pooling and unit agreements so as to commit the state lands included therein for as long as the unitized substance or substances for which the state lands are committed is produced from any lands in the unit.

(5) Oil or gas produced from any part of a unit in which state lands are included by virtue of a pooling agreement, *are considered* to be produced from the state lands therein, within the meaning of this *chapter.*"

Section 85. Section 81-1702.1, R.C.M. 1947, is amended to read as follows:

"81-1702.1. **Rentals — filing fee — contiguity.** *(1) The minimum annual money rentals to be paid to the state for oil and gas leases issued before March 3, 1955, shall be seventy-five cents ($.75) for each acre of land leased; however, this rental shall in no case be less than fifty dollars ($50) a year.*

(2) The annual money rentals to be paid to the state for oil and gas leases *issued on and after March 3, 1955,* shall be one dollar ($1) for each acre of land leased, except that in addition to *the* sum of one dollar ($1) per acre, the rental for the first year of the lease shall also include any sum in excess of one dollar ($1) per acre offered and accepted for *the* first year's rental; however, *this* rental shall in no case be less than fifty dollars ($50) *a year.*

(3) The first year's rental shall be paid before the *issuance* of the lease. The rentals for each subsequent year of the lease shall be due and payable thirty (30) days before the beginning of such subsequent year, and upon failure to make such payment *the* lease *terminates.*

(4) The lands shall be leased in as compact bodies as the form and areas of the tracts held by the state and offered for lease will permit. No lease *may* embrace noncontiguous subdivisions of lands unless *the* subdivisions *are* within an area comprising not more than one (1) square mile.

(5) In all cases where an oil and gas lease issued *after March 3, 1955,* is surrendered for cancellation before its expiration, relinquished to the state, or canceled through proceedings on the part of the state, no new lease on the lands under such lease *may* be issued within thirty (30) days from the date of cancellation or relinquishing. This restriction *does* not apply, however, in cases of bona fide assignment."

Section 86. Section 81-1702.2, R.C.M. 1947, is amended to read as follows:

"81-1702.2. **Power to terminate lease — grounds.** In every oil and gas lease granted *after March 3, 1955,* under this chapter there shall be reserved *to* the board full power to declare termination of the lease at the end of the second year or any subsequent year of the primary term of the lease upon failure of *the* lessee to either (a)

commence the drilling of a well for oil and gas upon the leased premises or (b) pay a delay drilling penalty as follows: for the sixth year of *the* lease one dollar and twenty-five cents ($1.25) per acre per year, and for the remainder of the primary term of the lease *an* amount per acre per year as *the* board may, in its discretion, determine. *Notice* of *that* determination shall be given to the lessee, and if the lessee *applies* for a hearing thereon within ten (10) days after receipt of *the* notice, the determination shall become final only after such hearing has been held. *This* annual delay drilling penalty *shall* be paid each year in advance. *If* a well for oil and gas is commenced, the drilling of *the* well shall be prosecuted with due diligence and dispatch to such depth as is necessary to make a reasonable test for oil or gas. *If* the first well drilled *is* a dry hole, and if a second well is not commenced on the land covered by the lease before the next anniversary of the lease following the completion of *the* well, *the* lease may be terminated by the board unless the lessee, on or before such anniversary, *resumes* the payments of penalties in the amounts provided *in this section. Upon* the resumption of the payment of such delay drilling penalties and their continued payment, *the* lease *continues* in force during the primary term as though there had been no interruption in *the* delay drilling penalty payments."

Section 87. Section 81-1705, R.C.M. 1947, is amended to read as follows:

"81-1705. **Report of lessees.** On or before the last day of each month every holder of a producing oil or gas lease shall make a report to the *department* for the preceding calendar month *on a* form the *department prescribes. The* report shall show the amount of oil or gas produced and saved during *the* preceding month, the price obtained, the total amount of all sales, and *any* additional information as may be required, and *it* shall be signed by the lessee or some responsible person having knowledge thereof. *The report* shall be accompanied by payment of the amount due the state as royalty for the month covered by the report, unless the state's royalty is being or has been paid direct by the purchaser thereof*; however,* where the amount of royalty due from any lease is determined by the board to be so small as to make it uneconomical to collect monthly, the board may authorize royalty payments to be made semiannually."

Section 88. Section 81-1706, R.C.M. 1947, is amended to read as follows:

"81-1706. **Work required to hold lease — extension of time — modification of existing leases.** *(1)* In every oil and gas lease granted by the state there shall be reserved *to* the board full power

to declare termination of the *lease* upon failure of the lessee to drill at least one well upon the leased premises *(*not less than six (6) inches in diameter to the depth of at least one thousand (1,000) feet, unless oil or gas in commercial quantity and of commercial quality shall be encountered at a shallower depth*)* within two *(2)* years after the date of the lease. *If* oil or gas in commercial quantities is not found at the depth of one thousand (1,000) feet or less, the lessee shall continue drilling with diligence to such depth as necessary to make reasonable test for oil or gas. The board may, in its discretion, upon satisfactory showing by the lessee, extend the time for the commencement or completion of such drilling obligation from year to year, not exceeding ten (10) years after the date of the lease, upon such terms and considerations the board *determines,* and upon payment to the *department* of such penalty, if any, the board in its discretion *determines,* for each year beginning with the third year, payable each year in advance.

(2) This section does not apply to leases issued after March 2, 1955."

Section 89. Section 81-1712, R.C.M. 1947, is amended to read as follows:

"81-1712. **Disposition of royalties and other moneys.** All fees, rentals, penalties, royalties, and bonuses collected for or under *state oil and gas* leases shall be paid to the *department* and credited as follows: All fees and penalties shall be credited to the state general fund; all rentals shall be credited to the income fund of the grant to which the lands under each lease belong; all moneys collected as royalties and bonuses shall be credited to the permanent fund arising from the grant to which the land under each particular lease belongs and become and forever remain an inseparable and inviolable part thereof. *However,* all royalties and bonuses collected from the lands forming part of the capitol building grant shall be available as income the same as all other receipts from such lands. *All* moneys received as rentals, royalties, and bonuses for or under leases on *state* lands and not held in trust for the public schools of the state, or for any state institution, shall be credited, one-half *(1/2)* to the state general fund and one-half *(1/2)* to the state permanent revenue fund."

Section 90. Section 81-1716, R.C.M. 1947, is amended to read as follows:

"81-1716. **Assignments of leases.** The assignment of any oil and gas lease issued under this *chapter,* either in whole or as to subdivisions of land embracing not less than forty *(40)* acres covered thereby, made to an assignee qualified as provided herein, *is* permitted. Such assignment *is* not, however, binding upon the state until

filed *with* the *department and* accompanied by the required fees, together with such proof of qualifications required by the board, and approved by *the* board or its lawful representative. *The* approval of any assignment so filed and supported *may* not be withheld in any case where the rights or interest of the state in the property assigned will not in the judgment of the board be prejudiced thereby, and the decision of the board in all cases *is* subject to appeal upon proper court proceedings. All other assignments of oil and gas leases issued under this *chapter* or interests therein *are* subject to approval by the board and *are* binding upon the state in the discretion of *the* board."

Section 91. Section 81-1717, R.C.M. 1947, is amended to read as follows:

"81-1717. **Removal of property of lessee at end of term—agreement with new lessee concerning property.** (1) Upon the termination for any cause of any lease issued *under* this *chapter,* the former lessee *has* six (6) months after the date of *the* termination to remove all machinery, fixtures, improvements, buildings and equipment belonging to him *on the* premises, except *for* casing in the wells and other equipment or apparatus necessary for the preservation of any oil or gas well or wells. *As* to such casing, equipment, and apparatus, any succeeding lessee, or in the event there *is* no succeeding lessee, the state, wishing to have such property left upon the premises, shall pay the reasonable value thereof to the former lessee. *If* the succeeding lessee or the board is unable to agree with the former lessee upon the reasonable cash value of such casing, equipment, and apparatus, the succeeding lessee or the state, as the case may be, shall pay in cash to the former lessee *a* sum fixed as a reasonable price by a board of three *(3)* appraisors, one *(1)* of whom shall be chosen by the successful bidder, one *(1)* by the former lessee, and the third by the two *(2)* so chosen. *Its* appraisal shall be reported to the respective parties in writing, and *is* final and conclusive.

(2) The former lessee may remain in possession and manage the land and property formerly covered by his lease until the value of *the* casing, equipment, and apparatus which *the* succeeding lessee or the state *desires* to have left upon *the* premises, is fixed, in the manner provided *in this section,* and *has* been paid to him in cash. *During the* time *the* former lessee remains in such possession, he *may* retain the same share of the products of the premises as inured to him during the term of his lease. Should the state or other bidder not desire any of *the* lessee's property as provided in this *section,* the lessee shall properly plug all wells and remove all of *his* property from *the* lands."

Section 92. Section 81-1718, R.C.M. 1947, is amended to read as follows:

"81-1718. **Surrender of lease.** The lessee under any oil and gas lease granted by the state *may* at the termination of any rental year, by giving to the *department* 30 days' previous notice in writing, surrender and relinquish *the* lease to the state in whole or as to any legal subdivision of the lands covered thereby and be discharged from any obligation not *yet* accrued as to lands so surrendered and relinquished, without prejudice to the continuance of the lease as to lands not surrendered or relinquished."

Section 93. Section 81-1720, R.C.M. 1947, is amended to read as follows:

"81-1720. **State officers not to be interested in leases.** It *is* unlawful for any *officer or employee of any agency* of *the executive department of state* government *who* is required to inspect or examine oil or gas wells or otherwise to gather field information in regard to prospecting for oil and gas or the production thereof, to lease or to become interested in any manner in any oil or gas lease on state lands."

Section 94. Section 81-1726, R.C.M. 1947, is amended to read as follows:

"81-1726. **Term of lease — renewal.** All leases issued *under section 81-1725* may be granted for a period not exceeding twenty (20) years, *and* the lessee *has* a preferential right to renew *the* lease for an additional period not exceeding twenty (20) years subject to *any* terms and conditions the board *imposes.*"

Section 95. Section 81-1728, R.C.M. 1947, is amended to read as follows:

"81-1728. **Bond of lessees.** *A lessee under section 81-1725* shall furnish bond to the state in *a form* prescribed by the board and in *an* amount adequate to indemnify the state against loss, damage, or detriment by reason of failure of the lessee to fully discharge the obligations contained in any lease. *No* bond in excess of twenty thousand dollars *($20,000) is* required under any one *(1)* lease."

Section 96. Section 81-1729, R.C.M. 1947, is amended to read as follows:

"81-1729. **Cancellation and forfeiture of lease—notice—hearings.** All leases granted *under section 81-1725* shall provide for *their* forfeiture and cancellation upon failure of the lessee to fully discharge the obligations provided therein, after written notice from the *department* and reasonable time allowed to the lessee for performance of any undertaking or obligation specified in such notice

concerning which the lessee is in default. The board *may* order and hold hearings on any matter or question involving leases issued under *section 81-1725,* under such rules and regulations as it *adopts;* any lessee, upon application, *is entitled to* a hearing on any notice or demand of the *department* before any lease is granted, forfeited, or canceled by *the* board."

Section 97. Section 81-1730, R.C.M. 1947, is amended to read as follows:

"81-1730. **Rentals — disposition of funds.** All rentals collected for or under leases issued under *section 81-1725* shall be paid to the *department* and credited in the same manner as rentals from oil and gas leases."

Section 98. Section 81-1731, R.C.M. 1947, is amended to read as follows:

"81-1731. **Termination and surrender of lease.** *(1) The* lessee *may,* at the termination of any rental year, by giving to the *department* thirty (30) days' previous notice in writing, surrender and relinquish such lease to the state and be thereupon discharged from any obligation not *yet* accrued.

(2) Upon the termination for any cause of any lease issued *under section 81-1725,* the lessee *has* six (6) months after the date of *the* termination within which to remove all machinery, fixtures, improvements, buildings, and equipment belonging to it upon *the* premises."

Section 99. Section 81-2201, R.C.M. 1947, is amended to read as follows:

"81-2201. **Exchange of timbered, cut over or burned over lands.** *The* board of land commissioners *may* accept on behalf of the state title in fee simple to any lands, timbered or from which the timber has been cut or burned, and in exchange therefor may convey not to exceed an equal value of similar *state* land. *However,* no such exchange *may* be made except that which in the opinion of the board will benefit the public interest. *For* the purpose of such *an* exchange, all *state* lands, including those referred to in section 81-1401 and section 81-903, are subject to be offered for such exchange, and any restrictions against their sale or disposal are, for the purpose of such *an* exchange, released."

Section 100. Section 81-2202, R.C.M. 1947, is amended to read as follows:

"81-2202. *Department of natural resources and conservation* **to investigate.** *When* a proposal for *an* exchange is made, and the owners of the respective tracts involved seem agreeable to negotiate

such exchanges, *the* proposal shall be referred to the *department of natural resources and conservation, and that department shall thoroughly investigate* all the lands involved in *the* proposal and estimate the value of all of *the* lands and consider every factor in connection with *the* proposal as may affect the public interest."

Section 101. Section 81-2203, R.C.M. 1947, is amended to read as follows:

"81-2203. **Investigation and findings concerning exchange of land.** *The department of natural resources and conservation* shall, as soon as *it concludes its* investigation thereof, report to the board the facts disclosed by *its* investigation and include in *its* report a recommendation concerning *the* proposal including *its* reasons therefor in writing. If the board, after considering *the* report and recommendation and making such further investigation as it *considers* advisable, is of the opinion that *the* exchange is in the public interest, *the* board shall consider the entire matter and make findings and conclusions concerning *the* proposal and make an order rejecting the proposal and dismiss the same, or if in the judgment of *the* board *the* exchange is in the public interest and should be made, the order shall so *state* and shall contain an accurate description of all lands to be exchanged."

Section 102. Section 81-2204, R.C.M. 1947, is amended to read as follows:

"81-2204. **Hearing concerning exchange — notice — final order.** *(1) If* the *state* board *approves a* proposal for exchange, the *department* of state lands shall *publish* at least once in some newspaper of general circulation in each county in which any of the lands involved are located, a notice *stating* in general terms the proposal and describing the lands involved and ownership thereof. *The* notice shall fix a day not less than twenty (20) and not more than sixty (60) days from the date of the first publication at which the board will hear objections to the proposed exchange and at which any person, firm, or corporation may appear in person or by representative and be heard.

(2) Within ten (10) days after the conclusion of *the* hearing *the* board shall make a final order describing the terms of the proposal for the exchange of the land involved and shall either dismiss the proposal as not being in the public interest or direct the proper officers to proceed to *complete* the exchange."

Section 103. Section 81-2205, R.C.M. 1947, is amended to read as follows:

"81-2205. **Rules and regulations *shall* be made by board.** The board *shall* adopt and promulgate such rules, regulations, and methods

of procedure affecting or touching the exchanges of lands *under this chapter*, as in *its* judgment *seems* advisable to the end that the public interests may be conserved."

Section 104. Section 81-2302, R.C.M. 1947, is amended to read as follows:

"81-2302. **Administration of lands by the state of Montana.** The board *shall* lease or sell *these* lands in the same manner as other school lands of the state are leased and sold. The board may sell or lease *these* lands without having *them* surveyed, *unless* the board *considers* it to be to the best interests of the state *to* have *the* lands surveyed as *in section 81-2303.* The proceeds from the leasing and sale of such lands shall be disposed of in the same manner as disposition is made of the proceeds from the leasing and sale of school lands of the state."

Section 105. Section 81-2303, R.C.M. 1947, is amended to read as follows:

"81-2303. **Survey of lands.** *If* the board *considers* it necessary that any of the lands mentioned in section 81-2301 be surveyed, *it* shall *have* the *lands* surveyed by the county surveyor of the county in which *the* lands *are located. If* there is no county surveyor, or if the county surveyor is unable to make *the* survey, or if the best interests of the state require, the board shall appoint a qualified surveyor to make *the* surveys, and *the* county surveyor, or other surveyor appointed *shall* make an actual survey thereof establishing four (4) corners of every quarter section and connecting the same with a United States survey, and within thirty (30) days after such survey file *with* the county clerk and recorder of *that* county a copy under oath of his field notes and plat and a duly certified copy of *his* field notes and plat with the *department.* For the services required in connection with the survey the county surveyor or other surveyor appointed *is* entitled to fees as prescribed in section 25-235. Such fees shall be paid in the same manner as other expenses of the department."

Section 106. Section 81-2402, R.C.M. 1947, is amended to read as follows:

"81-2402. **Definitions of terms.** Unless *the context requires otherwise, in this chapter:*

(1) "Account" means the resource development account in the earmarked revenue fund.

(2) "Income" means all proceeds received for the use of state land except revenues required by law to be placed in the Montana trust and legacy fund."

Section 107. Section 81-2403, R.C.M. 1947, is amended to read as follows:

"81-2403. **Development account in earmarked revenue fund — purposes for which used.** A resource development account in the earmarked revenue fund in the state treasury is created to be used solely for the purpose of investing in the improvement and development of *state* lands acquired by grant or foreclosure, in order to increase the revenue to be derived therefrom for common school support and support of the other entities, institutions and objects for which the lands are held in trust. The developments contemplated may include those projects that will develop or conserve the various state land resources including: water, both surface and underground, grazing land, agricultural land and timber land to the benefit of the state. They may also include expenses necessary to perfect title to lands claimed by the state which are suitable for development and other expenses or costs which in the judgment of the board *of land commissioners* are desirable or necessary in order to develop or increase the value of the land or the revenue therefrom. Appropriations from the account shall be expended for no other purposes."

Section 108. Section 81-2404, R.C.M. 1947, is amended to read as follows:

"81-2404. **Restriction on use of income from school and institutional lands.** Moneys in the account derived from the income from public school lands, university lands, agricultural college lands, scientific school lands, normal school lands, capitol building lands, or institutional lands, shall be expended by the department *of state lands* solely for the purpose of defraying the costs and expenses necessarily incurred in developing public lands of the same trust."

Section 109. Section 81-2405, R.C.M. 1947, is amended to read as follows:

"81-2405. **Deductions from income for development account—maximum percentage.** The board shall determine the amount or percentage of income, not to exceed two and one-half per cent (2½%) which is necessary to achieve the purposes of this *chapter*, and shall provide by rule for deductions of that amount or percentage from the income which is secured from the lands by the department for the trusts benefited by this *chapter*."

Section 110. Section 81-2406, R.C.M. 1947, is amended to read as follows:

"81-2406. **Crediting of deductions from land income.** All deductions from gross proceeds made in accordance with section *81-2405* shall be paid into the account, and the balance of *the* proceeds shall be paid into the state treasury to the credit of the *proper* account."

Section 111. Section 81-2407, R.C.M. 1947, is amended to read as follows:

"81-2407. **Investment of moneys in development account.** The board *of investments* shall invest the moneys in the resource development account in safe interest-bearing securities for the benefit of the account."

Section 112. Section 81-2408, R.C.M. 1947, is amended to read as follows:

"81-2408. **Rules and regulations.** The board shall adopt such rules as it *considers* necessary and proper for the purpose of carrying out the provisions of this *chapter.*"

Section 113. Section 82A-1101, R.C.M. 1947, is amended to read as follows:

"82A-1101. **Department of state lands—head.** There is a department of state lands. The department head is the board of land commissioners, *provided for* in article *X*, section 4 of the constitution *of this state.*"

Section 114. There is a new section to be numbered 82A-1101.1, R.C.M. 1947, which reads as follows:

82A-1101.1. **Functions of department.** The department has responsibility for the administration of laws relating to state lands, including, but not limited to, laws on:

(1) Selection, classification, appraisal, and exchange of lands (title 81, chapter 3);

(2) Leasing of agricultural lands (title 81, chapter 4);

(3) Coal mining leases and permits (title 81, chapter 5);

(4) Prospecting permits and mining lease (title 81, chapter 6);

(5) Leases and permits for deposits of stone, gravel, sand, and other minerals (title 81, chapter 7);

(6) Granting of easements for public purposes (title 81, chapter 8);

(7) Sale of state lands (title 81, chapter 9);

(8) Timber sales (title 81; chapter 16);

(9) Oil and gas leases (title 81, chapter 17);

(10) Hydroelectric power sites (title 81, chapter 18);

(11) Exchange of timbered, cut, or burned over lands (title 81, chapter 22);

(12) Resource development (title 81, chapter 24);

(13) Mined land reclamation (title 50, chapters 10 and 12).

Section 115. Section 82A-1104, R.C.M. 1947, is amended to read as follows:

"82A-1104. **Commissioner of state lands.** (1) There is *a* commissioner of state lands.

(2) The commissioner is the chief administrative officer of the department, *and* under the direction of the board of land commissioners *he is responsible for the administration of the functions vested in the department. He* shall *also* perform those functions that are delegated to him by the board.

(3) The commissioner shall be appointed and serve as provided for directors in section 82A-106."

Section 116. Sections 50-1101 through 50-1114, 81-101, 81-201 through 81-203, 81-204.1, 81-207 through 81-210, 81-305, 81-306, 81-422.1, 81-618 through 81-620, 81-916, 81-934 through 81-942, 81-1301, 81-1702.3, 81-1703, 81-1713, 81-1714, 81-1724, 81-2304, 82-904, 82A-1102, 82A-1103, and 83-105, R.C.M. 1947, are repealed.

Approved: March 21, 1973.

CHAPTER NO. 429

An Act Amending Section 72-118, R.C.M. 1947, Providing that Upon the Filing by any Railroad of a Change or Revision of any Rate, Fare, Charge or Classification by Filing Tariff Sheet or Sheets, Every Railroad Upon Suspension by the Commission of the Tariff Sheet or Sheets must Submit Prepared Testimony and Exhibits to Support Such Changes or Revisions; Providing that the Complaint of any Interested Party May Be Filed with the Board Within Twenty (20) Days after the Date of Filing of Such Changes or Revisions; Providing Further that the Board May Suspend the Operation of Such Rate, Fare, Charge or Classification for a Period Not to Exceed One Hundred Eighty (180) Days and Within Sixty (60) Days the Board Must Investigate Such; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 72-118, R.C.M. 1947, is amended to read as follows:

"72-118. **Power to alter classification or rate—approval of changes or revisions by the board—hearing complaint.** The said board shall have the power from time to time to change, alter, amend, or abolish any classification or rate established by it when deemed necessary, as hereinafter provided. The said board shall make and establish reasonable rates for the transportation of freight within the state of Montana, and shall prescribe rates, tolls and charges for all other service performed by any railroad subject hereto. No change or revision of any rate, charge, classification or rule of service contained in any tariff, classification or rule of a railroad shall be made by any railroad without first obtaining approval therefor from the board. Such changes or revisions shall be made by either of the methods hereinafter set forth:

(1) by filing an application with the board describing the nature and extent of the change, alteration or cancellation of the rate, classification, rule or regulation sought and the board shall thereafter give not less than ten (10) days' notice, in the manner determined by the board as most likely to give notice to the persons to be affected, of the time and place of public hearing to be held on the application by the board at which time and place the public generally, or any person, firm, or corporation shall have an opportunity to present such facts, information or statistics as shall be pertinent to the hearing then being held; or

(2) by filing with the board the tariff sheet or sheets containing such changes or revisions plainly stating the change or changes or revision or revisions, to be made; provided further, that the public shall be provided with such notice of the proposed changes or revisions as the board shall, by rule, require. The tariff sheet or sheets containing such changes or revisions shall be deemed approved and effective thirty (30) days after the same are filed unless the proposed revisions or changes are suspended or disallowed by the board prior to the expiration of the thirty (30) day period; provided, however, that the board may, for good cause, allow any change or revision to become effective on less than thirty (30) days after the filing thereof. *Upon filing such changes or revisions, all tariff sheet or sheets, when suspended by the board, must be supported by such prepared testimony and exhibits from the railroad as will support such changes or revisions. The prepared testimony and exhibits must be filed with the commission thirty (30) days after the effective date of such suspension. Such testimony and exhibits may be supplemented prior to, or at the time of hearing, and supplemental exhibits may be filed after the close of the hearing at the direction or with permission of the commission.*